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Wednesday
June 26, 1985

Briefings on How To Use the Federal Register—
For information on briefings in Chicago, IL, New York, NY, and Washington, DC, see announcement on the inside cover of this issue.

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Animal Drugs
Food and Drug Administration

Aviation Safety
Federal Aviation Administration

Color Additives
Food and Drug Administration

Conflict of Interests
Environmental Protection Agency

Credit
Federal Reserve System

Crop Insurance
Federal Crop Insurance Corporation

Freedom of Information
Railroad Retirement Board

Government Procurement
General Services Administration

Government Property Management
General Services Administration

Hazardous Waste
Environmental Protection Agency

Income Taxes
Internal Revenue Service

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Selected Subjects

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How To Cite This Publication: Use the volume number and the page number. Example: 50 FR 12345.

Organization and Functions (Government Agencies)
General Services Administration

Pesticides and Pests
Environmental Protection Agency

Reporting and Recordkeeping Requirements
Veterans Administration

Surface Mining
Surface Mining Reclamation and Enforcement Office

Trade Practices
Federal Trade Commission

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

CHICAGO, IL

WHEN: July 8 and 9; at 9 a.m. (identical sessions)

WHERE: Room 1654, Insurance Exchange Building, 175 W. Jackson Blvd., Chicago, IL.

RESERVATIONS: Call the Chicago Federal Information Center, 312-353-4242.

NEW YORK, NY

WHEN: July 9 and 10; at 9 a.m. (identical sessions)

WHERE: 2T Conference Room, Second Floor, Veterans Administration Building, 252 Seventh Avenue (between W. 24th and W. 25th Streets), New York, NY.

RESERVATIONS: Call Arlene Shapiro or Steve Colon, New York Federal Information Center, 212-264-4810.

WASHINGTON, DC

WHEN: September (two dates to be announced later).

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Presidential Documents

Title 3—

The President

Executive Order 12521 of June 24, 1985

Offsets in Military-Related Exports

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Defense Production Act of 1950, (50 U.S.C. App. 2061 *et seq.*), as amended by Public Law 98–265, and in order to provide for the performance of certain reporting functions with respect to the effect of offsets on international trade, it is hereby ordered that Section 602 of Executive Order No. 10480 of August 14, 1953, as amended, is further amended by adding the following new subsection:

"(d) (1) The functions conferred upon the President by Section 309 of the Defense Production Act, as amended, with respect to the preparation and submission of reports to the Congress concerning offsets shall be performed by the Director of the Office of Management and Budget (OMB). The Director may further delegate to the heads of Executive departments and agencies responsibility for preparing and submitting for his review particular sections of such reports. The heads of Executive departments and agencies shall, to the extent provided by law, provide the Director with such information as may be necessary for the effective performance of these functions.

"(2) In order to ensure that information gathered pursuant to this authority shall be subject to appropriate confidentiality protections, the United States International Trade Commission, which previously has been designated a 'central collection agency' in gathering this information under 44 U.S.C. 3509, is authorized, pursuant to Section 705 of the Defense Production Act, as amended, to collect the information required for compilation of the data base to be used in the preparation of the first such report to the Congress.".

Ronald Reagan

THE WHITE HOUSE,
June 24, 1985.

FR Doc. 85–15458
Filed 6–24–85; 4:29 pm]
Billing code 3195–01–M

Presidential Documents

Executive Order 12522 of June 24, 1985

Reimbursement of Federal Employee Relocation Expenses

By the authority vested in me as President by the laws of the United States of America, including Public Law 98–473 and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

Section 1. Executive Order No. 11609 of July 22, 1971, as amended, is further amended by revising the present text of Section 1(7)(c) to read as follows:

"(c) The authority of the President under 5 U.S.C. 5724c to prescribe the regulations provided for therein pursuant to which each agency shall carry out its responsibilities under 5 U.S.C. 5724c; *provided,* that the Director of Central Intelligence, after consultation with the Administrator of General Services, shall prescribe such regulations for the Central Intelligence Agency".

Sec. 2. This Order shall be effective as of October 12, 1984.

Ronald Reagan

THE WHITE HOUSE,
June 24, 1985.

[Fr Doc. 85–15459
Filed 6–24–85; 4:30 pm]
Billing code 3195–01–M

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 403

[Docket No. 2166S; Amdt. No. 2]

Peach Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Peach Crop Insurance Regulations (7 CFR Part 403), effective for the 1986 and succeeding crop years. The intended effect of this rule is to: (1) Clarify the establishment of the dollar amount of insurance applicable when the crop is damaged by hail; (2) clarify when appraisals will be used as production to count; and (3) delete from the Code of Federal Regulations Appendix B concerning counties where Peach Crop Insurance is offered. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: September 30, 1985.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 because it will not result in: (a) an annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this rule applies are: Title—Crop Insurance; Number 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

On December 14, 1983, FCIC published a final rule in the **Federal Register** amending 7 CFR Part 403. The rule was incorrectly listed as Amendment No. 3 rather than Amendment No. 1. This is Amendment No. 2.

On January 15, 1985, FCIC published a proposed rule in the **Federal Register** at 50 FR 2055, amending the Peach Crop Insurance Regulations, effective for the 1985 and succeeding crop years, to provide for the clarification of the heading of the Amount of Insurance Table illustrating the dollar amount of insurance per acre based on the amount of fruit remaining on the trees. However, the time for amending the policy for the 1985 crop year has passed. Therefore, the final rule will be effective for the 1986 and succeeding crop years. The amended language now defines when the amount is applicable as being the earlier of (a) the time of harvest, or (b) the date of inspection when damage is due to hail. This change allows FCIC sufficient time to inspect for hail damage. These changes also clarify when an appraisal will be used on production to count and delete Appendix B. The proposed rule also addressed the payment of interest on delayed indemnities. However, that change has been made final by a change to all regulations which was published at 50 FR 7906 and is, therefore, dropped from this final rule.

The public was given 60 days in which to submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, the proposed rule as published is hereby adopted as a final rule, effective for the 1986 and succeeding crop years.

List of Subjects in 7 CFR Part 403

Crop insurance, Peaches.

Final Rule

PART 403—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Peach Crop Insurance Regulations (7 CFR Part 403), effective for the 1986 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 403 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 403.7(d) is amended by revising the introductory text of paragraph (d), and by amending the Peach Crop Insurance Policy by revising the introductory text and the table in paragraph 4.b. and by adding 9.e. (3) (c) and (d) to read:

§ 403.7 The application and policy.

* * * * *

(d) The application for the 1986 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Peach Insurance Policy for the 1986 and succeeding crop years are as follows:

* * * * *

4. * * *

b. The dollar amount of insurance per acre for each crop year is determined by reference to the following table:

AMOUNT OF INSURANCE TABLE

[Dollar amount of insurance per acre]

At the time insurance attaches		Fruit remaining on trees at the earlier of (1) harvest, or (2) inspection [1]						
Col. A—expected production reported (bushels)	Col. B—level elected	Col. C—200 or more bushels	Col. D—150 to 199 bushels	Col. E—100 to 149 bushels	Col. F—50 to 99 bushels	Col. G—10 to 49 bushels	Col. H—0 to 9 bushels
300 or more:							
High	$800	$800	$720	$640	$560	$480	$400
Medium	600	600	540	480	420	360	300
Low	400	400	360	320	280	240	200
250 to 299:							
High	700	700	630	560	490	420	350
Medium	525	525	475	420	370	315	265
Low	350	350	315	280	245	210	175
200 to 249:							
High	600	600	540	480	420	360	300
Medium	450	450	405	360	315	270	225
Low	300	300	270	240	210	180	150
150 to 199:							
High	500	500	500	440	375	315	250
Medium	375	375	375	330	280	235	190
Low	250	250	250	220	190	155	125
100 to 149:							
High	400	400	400	400	335	265	200
Medium	300	300	300	300	250	200	150
Low	200	200	200	200	165	135	100

[1] Inspection only applicable when damage due to hail.

* * * * *

9. * * *

e. * * *

(3) * * *

(c) is not put to another use before the harvest of peaches becomes general in the county; or

(d) is not superseded by a later approval by us.

* * * * *

Appendix B—[Removed]

3. Appendix B to Part 403 is removed.

Done in Washington D.C., on March 20, 1985.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved June 19, 1985.

Edward Hews,

Acting Manager.

[FR Doc. 85-15340 Filed 6-25-85; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 415

[Docket No. 0013A]

Forage Production Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby revises and reissues the Forage Production Crop Insurance Regulations (7 CFR Part 415), effective for the 1986 and succeeding crop years. The intended effect of this rule is to provide for: (1) changing to a mandatory "Actual Production History" (APH) basis by removing the Premium Adjustment Table and providing for cancellation for not furnishing records; (2) adding as a cause of loss the unavoidable failure of irrigation water supply; (3) changing the method of computing indemnities when acreage, share or practice is underreported; (4) changing the insurance attachment, end of the insurance period, and the cancellation and termination dates in certain counties; (5) clarifying forage stand age limitations; (6) requiring notice before feeding of insured forage begins; (7) adding definitions for "grass mixture" and "loss ratio"; (8) deleting the terms "established stand" and "year of establishment"; and (9) deleting a provision of "unit definition" allowing division of land in the unit. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: June 28, 1985.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is January 1, 1990.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this final rule applies are: Title—Crop Insurance; Number 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Since policy changes must, by contract, be on file by June 30, 1985, good cause is shown for making this rule effective in less than 30 days.

On Friday, March 29, 1985, FCIC published a notice of proposed rulemaking in the Federal Register at 50 FR 12546, revising and reissuing the Forage Production Crop Insurance Regulations (7 CFR Part 415), effective for the 1986 and succeeding crop years. The public was given 30 days in which to submit written comments on the proposed rule, but none were received. Therefore, with the exception of a few minor changes in language and format, the proposed rule as published is hereby adopted as final.

The principle changes in the forage production policy are:

1. *Section 1.a.(8)*—Add the failure of the irrigation water supply because of unavoidable cause as an insurable cause of loss. This clarifies intent since it is implied as a cause of loss in Section 2.e.(2).

2. *Section 2.d.(4)*—Change to allow flexible limitations on the forage stand. Because of wide variations in climate and other factors, some areas are able to support alfalfa stands for periods longer

than 4 years while others may require more frequent rotations.

3. *Section 5.a.*—Remove the Premium Adjustment Table. The crop will be insured on an actual production history (APH) basis, and coverages will, therefore, reflect the actual production history of the crop on the unit. Insureds with good loss experience who are now receiving a premium discount are protected since they may retain a discount under the present schedule through the 1990 crop year or until their loss experience causes them to lose the advantage, whichever is earlier.

4. *Section 5.*—Remove the provisions for transfers of insurance experience and for premium computation when insurance has not been continuous. Deletion of the Premium Adjustment Table eliminates the need for these provisions.

5. *Section 7.*—Change to allow for varied dates for insurance attachment and end of the insurance period, and to allow greater flexibility of the insurance policy for adaptation to the wide variation of factors, such as time of seeding, length of growing season, climate, and number of cuttings.

6. *Section 8.b.(2)*—Change to require notice before feeding the insured forage. This will allow additional time for an inspection of the production.

7. *Section 8.a.*—Delete 30-day notice requirement because the other notice requirements stated in Section 8, and Section 9.a. adequately provide for all situations in which notice is required to be given for forage production.

8. *Section 9.d.*—Change computation of indemnities when acres are underreported. The production from all acres will be applied against the reported acres in calculating indemnities. This change will reduce the indemnities when acres are underreported and will reduce the complexity of calculations.

9. *Section 15.c.*—Add a clause to cancel the contract if production history is not furnished by the cancellation date. An exception will be allowed if the insured can show, prior to the cancellation date, that records are unavailable due to conditions beyond the insured's control. This clause is required by the change to mandatory APH.

10. *Section 15.e.*—Change the cancellation and termination date from September 15 to November 30, to allow more time between the first premium billing date of September 1 and the termination date.

11. *Section 17.*—Delete the definition of the term "Established Stand" because this term is not in the policy.

12. *Section 17.h.*—Add a definition for the term "Grass-mixture" to more specifically identify the actual composition of the forage stand.

13. *Section 17.1.*—Add a definition for the term "Loss Ratio" to clarify its use in Section 5.

14. *Section 17.p.*—Delete the provision allowing unit division. The difficulty of maintaining and auditing accurate and adequate records of production by small units requires elimination of this provision.

15. *Section 17.*—Delete the definition of the term "Year of Establishment" because this term is not in the policy.

List of Subjects in 7 CFR Part 415

Crop insurance, Forage production.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises and reissues the Forage Production Crop Insurance Regulations (7 CFR Part 415), effective for the 1986 and succeeding crop years, to read as follows:

PART 415—FORAGE PRODUCTION CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1986 and Succeeding Crop Years

Sec.

415.1 Availability of forage production crop insurance.
415.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
415.3 OMB control numbers.
415.4 Creditors.
415.5 Good faith reliance on misrepresentation.
415.6 The contract.
415.7 The application and policy.

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1986 and Succeeding Crop Years

§ 415.1 Availability of forage production crop insurance.

Insurance shall be offered under the provisions of this subpart on forage production in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 415.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for forage production which will be included in the actuarial table on file in applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 415.3 OMB control numbers.

OMB control numbers are contained in Subpart H to Part 400 in Title 7 CFR.

§ 415.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 415.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the forage production insurance contract, whenever:

(a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation (1) is indebted to the Corporation for additional premiums; or (2) has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds that: (1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto.

Application for relief under this section must be submitted to the Corporation in writing.

§ 415.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the forage production crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 415.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the forage production crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1986 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a forage production contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1986 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Forage Production Insurance Policy for the 1986 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Forage Production Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following losses occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake;
(7) Volcanic eruption ; or
(8) Failure of the irrigation water supply due to an unavoidable cause occurring after insurance attaches;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(6).

b. We will not insure against any loss of production due to:

(1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;

(2) The failure to follow recognized good forage production farming practices;

(3) The impoundment of water by any governmental, public, or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be forage which is planted for harvest as livestock feed, which is grown on insured acreage, and for which we provide a guarantee and premium rate in the actuarial table.

b. The acreage insured for each crop year will be forage planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share will be your share as landlord, owner-operator, or tenant in the insured forage at the time insurance attaches.

d. We do not insure any acreage:

(1) If the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) Which is irrigated and an irrigated practice is not provided for by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(3) If forage ground cover is less than 75 percent at the beginning of the insurance period;

(4) If the current age of the forage stand exceeds the limitations established by the actuarial table unless otherwise approved in writing by us;

(5) Planted to a type or variety or mixture not established as adapted to the area or excluded by the actuarial table;

(6) Grown with another crop; or

(7) Grown for experimental purposes.

e. If insurance is provided for an irrigated practice:

(1) You must report as irrigated only the acreage for which you have adequate facilities and water to carry out a good forage irrigation practice at the time insurance attaches; and

(2) Any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after insurance attaches, will be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities will not be considered as a failure of the water supply from an unavoidable cause.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the time insurance attaches.

3. Report of acreage, share, and practice.

You must report on our form:

a. All the acreage of insurable types of forage grown in the county in which you have a share;

b. The practice; and

c. Your share at the time insurance attaches.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any forage grown in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established in the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time insurance attaches. The amount is computed by multiplying the production guarantee times the price election times the premium rate, times the insured acreage, times your share at the time insurance attaches.

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1948 crop year under the terms of the experience table contained in the forage production policy in effect for the 1985 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1960 crop year;

(2) The premium reduction will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1985 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

a. Insurance attaches on acreage with an adequate stand:

(1) For the calendar year following the year of seeding on:

(a) February 1 for spring-seeded forage in California;

(b) April 15 for spring-seeded forage in Colorado, Idaho, Oregon, Utah and Washington;

(c) May 22 for spring-seeded forage in New York, North Dakota, Pennsylvania, and Wisconsin;

(d) October 16 for fall-seeded forage in all states except California; or

(e) December 1 for fall-seeded forage in California.

(2) For subsequent years on:

(a) October 16 in all states except California; or

(b) January 1 in California.

b. Insurance ends at the earliest of:

(1) Total destruction of the forage crop;

(2) Removal from the windrow or the field;

(3) Final adjustment of a loss; or

(4) The following dates of the calendar year in which the majority of the forage is normally harvested:

(a) All states except California...October 15;

(b) California..... December 31.

8. Notice of damage or loss.

a. In case of damage or probable loss, you must give us written notice if:

(1) During the period before harvest, the forage on any unit is damaged and you decide not to further care for or harvest any part of it;

(2) You want our consent to put the acreage to another use; or

(3) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the forage and given written consent. You must notify us when such acreage is put to another use.

b. If you are going to claim an indemnity on any unit, you must give us notice:

(1) Of probable loss at least 15 days before the beginning of any cutting or immediately, if probable loss is later determined; and

(2) At least 5 days before any feeding of the insured forage begins. The notice before feeding must include the number of acres harvested and tons produced from each unit.

c. You must obtain written consent from us before you destroy any of the forage which is not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) total destruction of the forage on the unit;

(2) final harvest of the units; or

(3) the calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of forage on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of forage to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you under section 3 of the policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported and not on the actual information determined. All production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production to be counted for a unit will include all harvested and appraised production.

(1) Any production from volunteer plants growing in the forage will be counted as forage on a weight basis.

(2) Appraised production to be counted will include:

(a) unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good forage farming practices;

(b) not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) any appraised production on unharvested acreage.

(3) When forage is harvested as other than air-dry hay, the production to count will be adjusted to the equivalent of air-dry hay.

(4) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of forage becomes general in the county;

(b) Harvested; or

(c) Further damaged by an insured cause before the acreage is put to another use.

(5) We may determine the amount of production of any unharvested forage on the basis of field appraisals conducted after the normal time for each cutting for the area.

(6) If you elect to exclude hail and fire as insured causes of loss and the forage is damaged by hail or fire, appraisals will be made in accordance with Form FCI-78, "Request to Exclude Hail and Fire."

(7) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You must not abandon any acreage to us.

g. You may not sue us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is received by you.

h. We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semi-annually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will at out option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for 2 years after the time of loss, records of the harvesting, storage, shipments, sale, or other disposition of all forage produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will be canceled if you do not furnish satisfactory records of the previous year's production to us on or before the cancellation date. If you show, prior to the cancellation date, to our satisfaction, that records are unavailable due to conditions beyond your control, such as fire, flood, or other natural disaster, the Field Actuarial Office may assign a yield for that year. The assigned yield will not exceed the preceding 10-year average yield.

d. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity will be the date you sign such claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both such other payment and setoff are approved.

e. The cancellation and termination date is:

State	Cancellation and termination date
All States	Nov. 30.

f. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

g. The contract will terminate if no premium is earned for 5 consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by May 31 preceding the cancellation date. Acceptance of any change will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of forage production crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding forage production insurance in the county.

b. "Alfalfa" means a pure stand of alfalfa or a stand of alfalfa and grass in which 60 percent or more of the ground cover is alfalfa.

c. "Alfalfa-grass mixture" means a mixed stand of alfalfa and grass in which alfalfa comprises more than 25 percent but less than 60 percent of the ground cover.

d. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county as shown by the actuarial table.

e. "Crop year" means the period from the date insurance attaches until harvest is normally completed and will be designated by the calendar year in which the majority of the forage is normally harvested.

f. "Cutting" means the severance of the forage plant from the land for the purpose of livestock feed.

g. "Forage" means Alfalfa, Alfalfa Grass-mixture or Grass-mixture.

h. "Grass-mixture" means a mixed stand of locally recognized forage grasses and alfalfa in which alfalfa comprises less than 25 percent of the ground cover.

i. "Harvest" means the removal from the windrow or field.

j. "Insurable acreage" means the land classified as insurable by us and shown as such in the actuarial table.

k. "Insured" means the person who submitted the application accepted by us.

l. "Loss ratio" means the ratio of indemnity(ies) to premium(s).

m. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

n. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

o. "Tenant" means a person who rents land from another person for a share of the forage production or a share of the proceeds therefrom.

p. "Unit" means all insurable acreage of forage in the county on the date insurance attaches:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the forage on such land will be considered as owned by the lessee. Units will be determined when the acreage is reported. Errors in reporting such units may be corrected by us when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, D.C., on May 1, 1985.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: June 19, 1985.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 85-15343 Filed 6-25-85; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 418

[Docket No. 0014A]

Wheat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby revises and reissues the Wheat Crop Insurance Regulation (7 CFR Part 418), effective for the 1986 and succeeding crop years. The intended effect of this rule is to provide for: (1) Changing to an "Actual Production History" (APH) basis by removing the Premium Adjustment Table and providing for cancellation for not furnishing records; (2) changing the method of computing indemnities when acreage, share or practice is underreported; (3) changing the end of the insurance period, the cancellation and termination dates and filing dates in certain counties; (4) clarifying certain sections of the policy with regard to mechanically seeded acreage and availability of the Late Planting Agreement Option; (5) adding a definition of "Loss ratio;" and (6) deleting Appendix A. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: June 30, 1985.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulations No. 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is December 31, 1990.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 because it will not result in: (a) an annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this final rule apply are: Title—Crop Insurance; Number 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Since policy changes must, by contract, be on file by June 30, 1985, good cause is shown for making this rule effective in less than 30 days.

On Friday, March 29, 1985, FCIC published a notice of proposed rulemaking in the Federal Register at 50 FR 12555, revising and reissuing the Wheat Crop Insurance Regulations (7 CFR Part 418), effective for the 1986 and succeeding crop years. The public was given 30 days in which to submit written comments on the proposed rule, but none were received. Therefore, with the exception of minor changes in language and format, the proposed rule is hereby adopted as final.

The principal changes in the wheat policy are:

1. *Section 2.d.(4)*—Change to clarify that the Late Planting Agreement Option is available only on spring-planted crops.

2. *Section 2.d.(7)*—Clarify when the wheat may be insured if seeded by airplane or broadcast.

3. *Section 5.a.*—Remove the Premium Adjustment Table. The crop will be insured on an actual production history (APH) basis, and coverages will, therefore, reflect the actual production history of the crop on the unit. Insureds with good loss experience who are now receiving a premium discount are protected since they may retain a discount under the present schedule through the 1990 crop year or until their loss experience causes them to lose the advantage, whichever is earlier.

4. *Section 5.* —Remove the provisions for transfers of insurance experience and for premium computation when insurance has not been continuous. Deletion of the Premium Adjustment Table eliminates the need for these provisions.

5. *Section 9.d.*—Change the method of computing the indemity when acres are underreported. The production from all acres will be applied against the reported acres in calculating indemnities. This change will reduce the indemnities when acres are underreported and will reduce the complexity of calculations.

6. *Section 15.c*—Add a clause to cancel the contract if production history is not furnished by the cancellation date. An exception will be allowed if the insured can show, prior to the cancellation date, that records are unavailable due to conditions beyond the insured's control. This clause is required by the change to mandatory APH.

7. *Section 15.e.*—Change the August 31 and September 15 cancellation/termination dates to September 30. Change the cancellation date from September 15 to September 30 for several western Colorado counties and some western and central South Dakota counties. These changes are made to more closely conform to harvest practices in those areas.

8. *Section 16.*—Change the filing date for contract changes from May 31 to June 30 for all counties other than those with an April 15 cancellation date. This change was made to coincide with the extension of cancellation dates.

9. *Section 17.g.*—Add a definition for the term "Loss Ratio" to clarify its use in Section 5.

10. In addition to the policy changes, FCIC also eliminates the codification of Appendix A. FCIC service offices will be able to advise a producer if wheat insurance is offered in a county.

List of Subjects in 7 CFR Part 418

Crop insurance, Wheat.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises and reissues the Wheat Crop Insurance Regulations (7 CFR Part 418), and removes Appendix A, effective

for the 1986 and succeeding crop years, to read as follows:

PART 418—WHEAT CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1986 and Succeeding Crop Years

Sec.

418.1 Availability of wheat crop insurance.
418.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
418.3 OMB control numbers.
418.4 Creditors.
418.5 Good faith reliance on misrepresentation.
418.6 The contract.
418.7 The application and policy.

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1986 and Succeeding Crop Years

§ 418.1 Availability of wheat crop insurance.

Insurance shall be offered under the provisions of this subpart on wheat in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 418.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for wheat which will be included in the actuarial table on file in applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 418.3 OMB control numbers.

OMB control numbers are contained in Subpart H to Part 400 in Title 7 CFR.

§ 418.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§418.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the wheat insurance contract, whenever: (a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the corporation: (1) Is indebted to the Corporation for additional premiums; or (2) has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds that: (1) an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Application for relief under this section must be submitted to the Corporation in writing.

§ 418.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the wheat crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 418.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the wheat crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the Federal Register upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1986 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a wheat contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1986 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Wheat Insurance Policy for the 1986 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Wheat—Crop Insurance Policy

(This is a continuous contract. Refer to section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake;
(7) Volcanic eruption; or
(8) Failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(7).

b. We will not insure against any loss of production due to:

(1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;

(2) The failure to follow recognized good wheat farming practices;

(3) The impoundment of water by any governmental, public, or private dam or reservoir project; or

(4) any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be wheat planted for harvest as grain, grown on insured acreage, and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year will be wheat planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share will be your share as landlord, owner-operator, or tenant in the insured wheat at the time of planting.

d. We do not insure any acreage:

(1) If the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(3) Which is destroyed, if it is practical to replant to wheat, and such acreage is not replanted;

(4) Initially planted after the final planting date contained in the actuarial table unless (for spring-planted wheat only) you agree, in writing, on our form to coverage reduction;

(5) Of volunteer wheat;

(6) Planted to a type or variety of wheat not established as adapted to the area or excluded by the actuarial table;

(7) On which the seed has not been mechanically incorporated into the soil unless provided for by the actuarial table; or

(8) Planted with another crop.

e. If insurance is provided for an irrigated practice:

(1) You must report as irrigated only the acreage for which you have adequate facilities and water, at the time of planting, to carry out a good wheat irrigation practice; and

(2) Any loss of production caused by failure to carry out a good wheat irrigation practice, except failure of the water supply due to an unavoidable cause occurring after the beginning of planting, will be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities will not be considered as a failure of the water supply from an unavoidable cause.

f. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree, in writing, to insure such acreage.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice.

You must report on our form:

a. All the acreage of wheat in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any wheat planted in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability of any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1984 crop year under the terms of the experience table contained in the wheat policy in effect for the 1985 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1990 crop year;

(2) The premium will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1985 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

a. Insurance attaches when the wheat is planted except that, in counties with an April 15 cancellation date, insurance on fall-planted wheat attaches on April 16 following planting if there is an adequate stand on this date to produce a normal crop.

b. Insurance ends at the earliest of:

(1) Total destruction of the wheat;

(2) Combining, threshing, harvesting for silage or hay, or removal from the field;

(3) Final adjustment of a loss; or

(4) The following dates of the calendar year in which wheat is normally harvested:

(a) Alaska.....September 25;

(b) All other states.....October 31.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the wheat on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the wheat and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss of any unit.

(3) If possible loss is later determined, immediate notice must be given. A representative sample of the unharvested wheat (at least 10 feet wide and the entire length of the field) must remain unharvested for a period of 15 days from the date of notice unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the wheat on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the wheat which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the wheat on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of wheat on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of wheat to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you under section 3 of the policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported and not on the actual information determined. All production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production (bushels) to be counted for a unit will include all harvested and appraised production.

(1) Mature wheat production which otherwise is not eligible for quality adjustment will be reduced .12 percent for each .1 percentage point of moisture in excess of 13.5 percent; or

(2) Mature wheat production which, due to insurable causes, has a test weight of less than 53 pounds per bushel or, as determined by a grain grader licensed by the Federal Grain Inspection Service or under the United States Warehouse Act: contains more than 10 percent kernel damage; more than 12 percent shrunken kernels; more than 6 green garlic bulblets or the equivalent of dry or partly dry garlic bulblets in a 1000-gram sample; or is smutty or ergoty, will be adjusted by:

(a) Dividing the value per bushel of the insured wheat by the price per bushel of U.S. No. 2 wheat; and

(b) Multiplying the result by the number of bushels of such wheat.

The applicable price for No. 2 wheat will be the local market price on the earlier of the day the loss is adjusted or the day the insured wheat is sold.

(3) Any harvested production from other volunteer plants growing in the wheat will be counted as wheat on a weight basis.

(4) Appraised production to be counted will include:

(a) Potential production lost due to uninsured causes and failure to follow recognized good wheat farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) Any unharvested production.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of wheat becomes general in the county;

(b) Harvested; or

(c) Further damaged by an insured cause before the acreage is put to another use.

(6) The amount of production of any unharvested wheat may be determined on the basis of field appraisals conducted after the end of the insurance period.

(7) If you elect to exclude hail and fire as insured causes of loss and the wheat is damaged by hail or fire, appraisals will be made in accordance with Form FCI-78, "Request To Exclude Hail And Fire."

(8) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You must not abandon acreage to us.

g. You may not sue us unless you have complied with all policy pro isions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is received by you.

h. We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 6110, and published in the Federal Register semi-annually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the wheat is planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for 2 years after the time of loss, records of harvesting, storage, shipment, sale, or other disposition of all wheat produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will be canceled if you do not furnish to us, on or before the cancellation date, satisfactory records of production for:

(1) The previous crop year in counties having an April 15 cancellation date;

(2) The year prior to the previous crop year in counties having any other cancellation date.

If you show, prior to the cancellation date, to our satisfaction, that records are unavailable due to conditions beyond your control, such as fire, flood, or other natural disaster, the Field Actuarial Office may assign a yield for that year. The assigned yield will not exceed the previous 10-year average.

d. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both such other payment and setoff are approved.

e. The cancellation and termination dates are:

State and county	Cancellation date	Termination date
All Alaska counties except those listed below; Alamosa, Conejos, Costilla, Rio Grande, and Saguache Counties, Colorado; Maine; Minnesota; Daniels, Roosevelt, Sheridan, and Valley Counties, Montana; New Hampshire; North Dakota; Corson, Walworth, Edmunds, Faulk, Spink Beadle, Jerauld, Aurora, Douglas, and Bon Homme Counties, South Dakota and all South Dakota counties lying north and east thereof; Vermont; and Trempealeau, Jackson, Wood, Portage, Waupaca, Outagamie, Brown, and Kewaunee Counties, Wisconsin and all Wisconsin Counties north and west thereof.	Apr. 15	Apr. 15.
All other Colorado counties except those listed below; all other Iowa counties except those listed below; Kansas; Nebraska; New Mexico; Oklahoma; Texas; all other Wisconsin counties and all other states except those listed below.	Sept. 30	Sept. 30.
Archuleta, Custer, Delta, Dolores, Eagle, Garfield, Grand, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Routt, and San Miguel Counties, Colorado; Connecticut; Plymouth, Cherokee, Buena Vista, Pocahontas, Humboldt, Wright, Franklin, Butler, Black Hawk, Buchanan, Delaware, and Dubuque Counties, Iowa and all Iowa counties north thereof; Massachusetts; all other Montana counties; New York; Rhode Island; all other South Dakota counties; Wyoming.	do	Nov. 30.
Matanuska-Susitna County, Alaska; Arizona; California; Idaho; Nevada; Oregon; Utah; and Washington.	Oct. 31	Do.

f. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

g. The contract will terminate if no premium is earned for consecutive years.

16. Contract changes.

We may change any of the terms and provisions of the contract from year to year. If your price election at wich indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date and by June 30 preceding the cancellation date for all other counties. Acceptance of any change will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of wheat crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding wheat insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county as shown by the actuarial table.

c. "Crop year" means the period within which the wheat is normally grown and will be designated by the calendar year in which the wheat is normally harvested.

d. "Harvest" of wheat on the unit means combining, threshing, or cutting for hay or silage.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Loss ratio" means the ratio of indemnity(ies) to premium(s).

h. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Tenant" means a person who rents land from another person for a share of the wheat or a share of the proceeds therefrom.

k. "Unit" means all insurable acreage of wheat in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

2. Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the wheat on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement with us. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, D.C., on May 1, 1985.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: June 19, 1985.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 85-15353 Filed 6-25-85; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 419

[Docket No. 0015A]

Barley Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby revises and reissues the Barley Crop Insurance Regulations (7 CFR Part 419), effective for the 1986 and succeeding crop years. The intended effect of this rule is to provide for: (1) Changing to a mandatory "Actual Production History" (APH) basis by removing the Premium Adjustment Table and providing for cancellation for not furnishing records; (2) changing the method of computing indemnities when acreage, share or practice is underreported; (3) changing the cancellation and termination dates and filing dates in certain counties; (4) clarifying certain sections of the policy with regard to mechanically seeded acreage and availability of the Late Planting Agreement Option; and (5) adding a definition of "Loss ratio." The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: June 28, 1985.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1. This action constitutes a review as to the need,

currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is January 1, 1990.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this final rule applies are: Title—Crop Insurance; Number 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Since policy changes, must, by contract, be on file by June 30, 1985, good cause is shown for making this rule effective in less than 30 days.

On Friday, March 29, 1985, FCIC published a notice of proposed rulemaking in the **Federal Register** at 50 FR 12550, revising and reissuing the Barley Crop Insurance Regulations (7 CFR Part 419), effective for the 1986 and succeeding crop years. The public was given 30 days in which to submit written comments on the proposed rule, but none were received. Therefore, with the exception of a few minor changes in language and format, the proposed rule is hereby adopted as final.

The principal changes in the barley policy are:

1. *Section 2.d.(4)*—Add a stipulation to the policy language to clarify that the Late Planting Agreement Option is available only for use on spring-planted crops.

2. *Section 2.d.(7)*—Clarify when the barley may be insured if seeded by airplane or broadcast.

3. *Section 5.a.*—Remove the Premium Adjustment Table. The crop will be insured on an actual production history (APH) basis, and coverages will, therefore, reflect the actual production history of the crop on the unit. Insureds with good loss experience who are now receiving a premium discount are protected since they will retain any discount under the present schedule through the 1990 crop year or until their loss experience causes them to loss the advantage, whichever is earlier.

4. *Section 5.*—Remove the provisions for transfers of insurance experience and for premium computation when insurance has not been continuous. Deletion of the Premium Adjustment Table eliminates the need for these provisions.

5. *Section 9.d.*—Change the method of computing the indemnities when acres are underreported. The production from all acres will be applied against the reported acres in calculating indemnities. This change will reduce the indemnities when acres are underreported and will reduce the complexity of calculations.

6. *Section 15.c.*—Add a clause to cancel the contract if production history is not furnished by the cancellation date. An exception will be allowed if the insured can show, prior to the cancellation date, that records are unavailable due to conditions beyond the insured's control. This clause is required by the change to mandatory APH.

7. *Section 15.e.*—Change cancellation and termination dates from August 31 to September 30 for New Mexico except Taos County; Oklahoma and Texas. Also, change only the cancellation date from August 31 to September 30 for several southeastern Colorado counties and Kansas. These changes are made to more closely conform to harvest practice in those areas.

8. *Section 16.*—Change the filing date for contract changes from May 31 to June 30 preceding the cancellation date for all counties other than those with an April 15 cancellation date. This change is made to coincide with the extension of cancellation dates.

9. *Section 17.g.*—Add a definition for the term "Loss Ratio" to clarify its use in Section 5.

List of Subjects in 7 CFR Part 419

Crop insurance, Barley.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises and reissues the Barley Crop Insurance Regulations (7 CFR Part 419), effective for the 1986 and succeeding crop years, to read as follows:

PART 419—BARLEY CROP INSURANCE REGULATIONS

Subpart—Regulations of the 1986 and Succeeding Crop Years

Sec.

419.1 Availability of barley crop insurance.
419.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
419.3 OMB control numbers.
419.4 Creditors.
419.5 Good faith reliance on misrepresentation.
419.6 The contract.
419.7 The application and policy.

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

Subpart in Regulations for the 1986 and Succeeding Crop Years

§ 419.1 Availability of barley crop insurance.

Insurance shall be offered under the provisions of this subpart on barley in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 419.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for barley which will be included in the actuarial table on file in applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 419.3 OMB control numbers.

OMB control numbers are contained in Subpart H to Part 400 in Title 7 CFR.

§ 419.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien,

mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 419.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the barley insurance contract, whenever: (a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation (1) is indebted to the Corporation for additional premiums; or (2) has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds that: (1) an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Application for relief under this section must be submitted to the Corporation in writing.

§ 419.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the barley crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 419.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the barley crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1986 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a barley contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1986 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Barley Insurance Policy for the 1986 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Barley Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects;

(4) Plant disease;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) Failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting.

(unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(7).

b. We will not insure against any loss of production due to:

(1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;

(2) The failure to follow recognized good barley farming practices;

(3) The impoundment of water by any governmental, public, or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be barley planted for harvest as grain, grown on insured acreage, and for which a guarantee and premium rate are provided by the acturial table. A mixure of barley with either oats or wheat or both planted for harvest as grain may also be insured if provided for by the actuarial table. The production from such mixture will be considered as barley on a weight basis.

b. The acreage insured for each crop year will be barley planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share will be your share as landlord, owner-operator, or tenant in the insured barley at the time of planting.

d. We do not insure any acreage:

(1) If the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(3) Which is destroyed, it is practical to replant to barley, and such acreage is not replanted;

(4) Initially planted after the final planting date contained in the actuarial table unless (for spring-planted barley only) you agree, in writing, on our form to coverage reduction;

(5) Of volunteer barley;

(6) Planted to a type of variety of barley not established as adapted to the area or excluded by the actuarial table;

(7) On which the seed has not been mechanically incorporated into the soil unless provided for in the actuarial table; or

(8) Planted with another crop except as provided in section 2a.

e. If insurance is provided for an irrigated practice:

(1) You must report as irrigated only the acreage for which you have adequate facilities and water, at the time of planting, to carry out a good barley irrigation practice; and

(2) Any loss of production caused by failure to carry out a good barley irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, will be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or

facilities will not be considered as a failure of the water supply from an unavoidable cause.

f. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree, in writing, to insure such acreage.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of Acreage, share, and practice.

You must report on our form:

a. All the acreage of barley in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any barley planted in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

b. Interest will accrue at the rate of one and one-half percent (1-½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1984 crop year under the terms of the experience table contained in the barley policy in effect for the 1985 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1990 crop year;

(2) The premium reduction will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1985 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

a. Insurance attaches when the barley is planted except that in counties with an April 15 cancellation date, insurance on fall-planted barley attaches April 16 following planting if there is an adequate stand on April 16 to produce a normal crop.

b. Insurance ends at the earliest of:

(1) Total destruction of the barley;

(2) Combining, threshing, harvesting for silage or hay, or removal from the field;

(3) Final adjustment of a loss; or

(4) The following dates of the calendar year in which the barley is normally harvested:

(a) Alaska.....September 25;

(b) All other states.....October 31.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the barley on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the barley and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice must be given. A representative sample of the unharvested barley (at least 10 feet wide and the entire length of the field) must remain unharvested for a period of 15 days from the date of notice unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the barley on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the barley which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the barley on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of barley on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of barley to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you under section 3 of the policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported and not on the actual information determined. All production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production (bushels) to be counted for a unit will include all harvested and appraised production.

(1) Mature barley production which otherwise is not eligible for quality adjustment will be reduced .12 percent for each .1 percentage point of moisture in excess of 14.5 percent; or

(2) Mature barely production which, due to insurable causes, has a test weight of less than 40 pounds per bushel or, as determined by a grain grader licensed by the Federal Grain Inspection Service or under the United States Warehouse Act: contains less than 85 percent sound barley; more than 8 percent damaged kernals; more than 35 percent thin barley; more than 5 percent black barley; or is smutty, garlicky, or ergoty, will be adjusted by:

(a) Dividing the value per bushel of the insured barley by the price per bushel of U.S. No. 2 barley; and multiplying the

(b) Result by the number of bushels of such barley.

The applicable price for No. 2 barley will be the local market price on the earlier of the day the loss is adjusted or the day the insured barley is sold.

(3) Any harvested production from other volunteer plants growing in the barley will be counted as barley on a weight basis.

(4) Appraised production to be counted will include:

(a) Potential production lost due to uninsured causes and failure to follow recognized good barley farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) Any unharvested production.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of barley becomes general in the county;

(b) Harvested; or

(c) Further damaged by an insured cause before the acreage is put to another use.

(6) The amount of production of any unharvested barley may be determined on the basis of field appraisals conducted after the end of the insurance period.

(7) If you elect to exclude hail and fire as insured causes of loss and the barley is damaged by hail or fire, appraisals will be made in accordance with Form FCI–78, "Request To Exclude Hail and Fire."

(8) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You must not abandon any acreage to us.

g. You may not sue us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is received by you.

h. We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date and sumbit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the Federal Register semi-annually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the barley is planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment of fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for 2 years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all barley produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. The contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will be canceled if you do not furnish to us, on or before the cancellation date, satisfactory records of production for:

(1) The previous crop year in counties having an April 15 cancellation date;

(2) This year prior to the previous crop year in all other counties. If you show, prior to the cancellation date, to our satisfaction, that records are unavailable due to conditions beyond your control, such as fire, flood, or other natural disaster, the Field Actuarial Office may assign a yield for that year. The assigned yield will not exceed the preceding 10-year average.

d. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both such other payment and setoff are approved.

e. The cancellation and termination dates are:

State and county	Cancellation date	Termination date
Kit Carson, Lincoln, Elbert, El Paso, Pueblo, Las Animas, Counties, Colorado and all Colorado counties south and east thereof; Connecticut; Kansas; Massachusetts; and New York.	Sept. 30	Nov. 30.
New Mexico except Taos County; Oklahoma; Missouri; Illinois; Indiana; Ohio; Pennsylvania; New Jersey; and all states, south and east thereof.	do	Sept. 30.
Arizona; California; Clark and Nye Counties, Nevada.	Oct. 31	Nov. 30.
All other Colorado counties; all other Nevada counties; Taos County, New Mexico and all other States.	Apr. 15	Apr. 15.

f. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

g. The contract will terminate if no premium is earned for 5 consecutive years.

16. Contract changes.

We may change any of the terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date and by June 30 preceding the cancellation date for all other counties. Acceptance of any change will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of barley crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding barley insurance in the county.

b. "County" means the county shown in the application and any additional land located in a local producing area bordering on the county as shown by the actuarial table.

c. "Crop year" means the period within which the barley is normally grown and will be designated by the calendar year in which the barley is normally harvested.

d. "Harvest" of barley on the unit means combining, threshing, or cutting for hay or silage.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Loss ratio" means the ratio of indemnity(ies) to premium(s).

h. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Tenant" means a person who rents land from another person for a share of the barley or a share of the proceeds therefrom.

k. "Unit" means all insurable acreage of barley in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the barley on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement with us. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of notice will be determined by the time of our receipt of the written notice.

Done in Washington, D.C., on May 3, 1985.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: June 19, 1985.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 85-15342 Filed 6-25-85; 8:45 am]

BILLING CODE 3410-08-M

FEDERAL ELECTION COMMISSION

11 CFR Parts 9007 and 9038

[Notice 1985-8]

Repayments by Publicly Financed Presidential Candidates

AGENCY: Federal Election Commission.

ACTION: Final rule: Announcement of effective date.

SUMMARY: On March 8, 1985, (50 FR 9421), the Commission published the text of revisions to its regulations at 11 CFR Parts 9007 and 9038, which implement the Presidential Election Campaign Fund Act and the Presidential Matching Payment Account Act, 26 U.S.C. 9001, *et. seq.* and 9031, *et. seq.* These rules specify the formula used to determine repayments for non-qualified campaign expenses by publicly-financed Presidential candidates and were revised in accordance with the recent decisions by the U.S. Court of Appeals for the D.C. Circuit in *Kennedy for President Committee* v. *Federal Election Commission*, 734 F.2d 1558 (D.C. Cir. 1984), and *Reagan for President Committee* v. *Federal Election Commission*, 734 F.2d 1569 (D.C. Cir. 1984). The revised regulations provide for a pro-rata, rather than 100 percent, repayment of funds used for non-qualified campaign expenses. The *Kennedy* and *Reagan* decisions disallowed application of the 100 percent formula to the two 1980 primary committees involved in those cases. Due to those decisions, the Commission will apply the pro-rata formula of the regulations made effective by this notice to determine any necessary repayments for non-qualified campaign expenses by publicly-financed Presidential candidates involved in the 1984 election or in subsequent elections. The Commission announces that these regulations are effective as of June 26, 1985.

EFFECTIVE DATE: June 26, 1985.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 1325 K Street, NW., Washington, D.C. 20463, (202) 523-4143 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: 26 U.S.C. 9009(c) and 9038(c) require that any rule or regulation prescribed by the Commission to carry out the provisions of Title 26, United States Code, be transmitted to the Speaker of the House of Representatives and the President of the Senate prior to final promulgation. The Commission may finally prescribe the regulations in question after they have been before both Houses of Congress for 30 legislative days. The regulations made effective by this notice were transmitted to Congress on August 17, 1984, but thirty legislative days had not expired when Congress adjourned on October 12, 1984. The Commission retransmitted these regulations on March 8, 1985. Thirty legislative days expired in the House and in the Senate as of May 20, 1985.

Announcement of Effective Date

11 CFR Parts 9007 and 9038, as published at 50 FR 9421-9423, are effective as of June 26, 1985.

Dated: June 20, 1985.

John Warren McGarry,

Chairman, Federal Election Commission.

[FR Doc. 85-15310 Filed 6-25-85; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 207

[Docket No. R-0529]

Regulation G; Securities Credit by Persons Other Than Banks, Brokers, or Dealers

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending its Regulation G (12 CFR Part 207) to permit non-bank, non-broker lenders to extend credit to trusts for employee stock option plans (ESOPs) qualified under section 401 of the Internal Revenue Code without regard to the credit limitations normally applicable under Regulation G. This will permit savings and loans and other "G-lenders" to extend such credit on margin stock on the same basis as banks are currently allowed to lend under a special exemptive provision in Regulation U. Comments have been received on this proposal which was published in the **Federal Register** on March 19, 1985 (50 FR 10972), and they were generally supportive.

EFFECTIVE DATE: July 22, 1985.

FOR FURTHER INFORMATION CONTACT: Laura Homer, Securities Credit Officer or Susan Meyers, Securities Regulation Analyst, Division of Banking Supervision and Regulation, (202) 452–2781, or Joy W. O'Connell, Telecommunication Device for the Deaf (TDD) (202) 452–3244.

Final Regulatory Flexibility Analysis

The Board's Initial Regulatory Flexibility Analysis of the proposal to amend Regulation G to permit G-lenders to extend, on an exempt basis, credit to ESOPs indicated that it was not expected to have any adverse impact on a substantial number of small businesses. No comments to the contrary have been received except for one relating to small broker-dealers. The Board is simultaneously adopting an amendment to Regulation T (12 CFR Part 220) that will eliminate any problem of unequal treatment to broker-dealers. The Board, therefore, certifies for the purposes of 5 U.S.C. 605(b) that the amendment is not expected to have any adverse impact on a substantial number of small businesses.

List of Subjects in 12 CFR Part 207

Banks, Banking, Credit, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

PART 207—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS, OR DEALERS

Accordingly, the Board amends 12 CFR Part 207 (Regulation G) in the following manner:

1. The authority citations for 12 CFR 207 continues to read as follows:

Authority: Secs. 3, 7, 8, 17 and 23 of The Securities Exchange Act of 1934, as amended (15 U.S.C. 78c, 78g, 78h, 78q and 78w).

2. Section 207.5 is amended by revising the heading and adding a new paragraph (c) as follows:

§ 207.5 Employee Stock Option, Purchase and Ownership Plans.

* * * * *

(c) *Credit to ESOPs*

A lender may extend and maintain purpose credit without regard to the provisions of this part, except for §§ 207.3(a) and 207.3(o), if such credit is extended to an employee stock ownership plan (ESOP) qualified under section 401 of the Internal Revenue Code, as amended (26 U.S.C. 401).

By order of the Board of Governors of the Federal Reserve System, June 19, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85–15360 Filed 6–25–85; 8:45 am]

BILLING CODE 6210-01-M

12 CFR Part 220

[Docket No. R-0538]

Regulation T; Credit by Brokers and Dealers

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending Regulation T (23 CFR Part 220, Credit by Brokers and Dealers) in order to continue the Board's present policy of requiring an initial margin for the writing of options that is identical to the maintenance margin required by exchange or association rules that have been approved by the Securities and Exchange Commission ("SEC"). The amendment states that the initial margin shall be the amount specified by the rules of the national securities exchanges or association authorized to trade the option if the SEC has approved the rules. It will no longer specify what that amount is for options on equity securities and will consolidate the existing provisions for different option products into a single rule. A further provision is added to cover options not effected on exchanges or association facilities.

EFFECTIVE DATE: September 30, 1985.

FOR FURTHER INFORMATION CONTACT: Laura Homer, Securities Credit Officer or Susan Meyers, Securities Regulation Analyst, Division of Banking Supervision and Regulation, (202) 452–2781, or Joy W. O'Connell, Telecommunication Device for the Deaf (TDD) (202) 452–3244.

SUPPLEMENTARY INFORMATION: A new margining system for the writing of options has been proposed to the SEC by the exchanges that trade options. The formula for any option product would be the premium, plus a precentage of the current market value of the underlying security, index, or other instrument on which the option is based, minus the amount the option is "out of the money". A minimum amount would be established for each option. This amount and the percentage of current market value for each product has been established for existing products based upon annualized volatility studies. They reflect the risks involved for the broker or adverse price movements over a period of time. The Board's existing rules for option products would accommodate this new system with the exception of the rule for an option on a single equity security. The Board proposed an amendment to the equity option provision (50 FR 5766, Feb. 12, 1985) in order to facilitate the industry's change to the "premium plus" system.

Comments were all favorable to the "premium plus" concept. One commenter, however, voiced concern over the delegation of authority to the SROs Commenters and the SEC staff have asked for a delayed effective date so that computer programs can be changed to the new system. A three-month period has been provided to allow for computer program changes and for SEC action on the rule changes that will implement the new margining system.

The Board also wishes to give notice that it is considering deleting paragraph (c) (3), (4), (5), and (6) in § 220.5 of Regulation T if all of the exchanges and the NASD incorporate the substance of those provisions in the SRO rules. Each of the various national securities exchanges and the NASD should notify the Board when similar rules have been adopted.

Final Regulatory Flexibility Analysis

The Initial Regulatory Flexibility Analysis indicated that the change proposed would reduce some administrative and regulatory burdens faced by the brokerage community and was not expected to have any adverse impact on a substantial number of small businesses. No comments to the contrary were received. The Board, therefore, certifies for purposes of 5 U.S.C. 605(b) that this amendment to Regulation T will not have any adverse impact on a substantial number of small businesses.

List of Subjects in 12 CFR Part 220

Banks, Banking borrowers, Brokers, Credit, Margin, Margin requirements, Investments, Reporting and recordkeeping requirements, Securities.

PART 220—CREDIT BY BROKERS AND DEALERS

Accordingly, the Board amends 12 CFR Part 220 (Regulation T) as set forth below:

1. The authority citation for 12 CFR Part 220 is revised to read as follows:

Authority: Secs. 3, 7, 8, 17 and 23 of The Securities Exchange Act of 1934, as amended (15 U.S.C. 78c, 78g, 78h, 78q and 78w).

2. Section 220.5 (c)(2) is revised to read as set forth below:

§ 220.5 Margin Account Exceptions and Special Provisions.

* * * * *

(c) * * *

(2) *Margin for options on equity securities.* The required margin for each transaction involving any short put or short call on an equity security shall be the amount set forth in § 220.18 (the Supplement).

* * * * *

3. Section 220.18 is revised to read as follows:

§ 220.18 Supplement: Margin Requirements.

The required margin for each security position held in a margin account shall be as follows:

(a) Margin equity security, except for an exempted security or a long position in an option: 50 percent of the current market value of the security.

(b) Exempted security, registered nonconvertible debt security or OTC margin bond: The margin required by the creditor in good faith.

(c) Short sale of nonexempted security: 150 percent of the current market value of the security, or 100 percent of the current market value if a security exchangeable or convertible within 90 calendar days without restriction other than the payment of money into the security sold short is held in the account.

(d) Short sale of an exempted security: 100 percent of the current market value of the security plus the margin required by the creditor in good faith.

(e) Nonmargin, nonexempted security or a long position in any option: 100 percent of the current market value.

(f) Short put or short call on a security, certificate of deposit, securities index or foreign currency:

(1) In the case of puts and calls issued by a registered clearing corporation and listed or traded on a registered national securities exchange or a registered securities association, the amount, or other position (except in the case of an option on an equity security), specified by the rules of the registered national securities exchange or the registered securities association authorized to trade the option, provided that all such rules have been approved or amended by the SEC; or

(2) In the case of all other puts and calls, the amount, or other position (except in the case of an option on an equity security), specified by the maintenance rules of the creditor's self-regulatory organization.

By order of the Board of Governors of the Federal Reserve System, June 19, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-15358 Filed 6-25-85; 8:45 am]

BILLING CODE 6210-01-M

12 CFR Part 220

[Docket No. R-0529]

Regulation T; Credit By Brokers and Dealers Employee Stock Ownership Plans

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending Regulation T to permit broker-dealers to extend and to arrange credit for employee stock ownership plans qualified under section 401 of the Internal Revenue Code. Although the changes are being made effective July 22, 1985, comments will be received until that date and appropriate modifications, if any are deemed necessary, will be made in response to comments.

DATE: Comments should be received by July 22, 1985.

ADDRESSES: Comments, which should refer to Docket No. R-0529, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551 or delivered to the C Street entrance between 8:45 a.m. and 5:15 p.m. weekdays. Comments may be inspected weekdays from 8:45 a.m. to 5:15 p.m. in Room B-1122.

FOR FURTHER INFORMATION CONTACT: Laura Homer, Securities Credit Officer or Susan Meyers, Securities Regulation Analyst, Division of Banking Supervision and Regulation, (202) 452-2781, or Joy W. O' Connell, Telecommunication Device for the Deaf (TDD) (202) 452-3244.

SUPPLEMENTARY INFORMATION: In the 1983 revision to Regulation U, the Board exempted credit extended by banks to employee stock ownership plans from the margin requirements (48 FR 35074, August 3, 1983). In 1985, the Board proposed extending this exemption to lenders subject to Regulation G and asked for comment as to whether Regulation T should also be amended to provide a comparable exception for brokers and dealers. (50 FR 10933, March 19, 1985). Comments received were overwhelmingly in favor of such an amendment to Regulation T.

Final Regulatory Flexibility Analysis

The Board's amendment to Regulation T is not expected to have any adverse impact on a substantial number of small businesses. For the purposes of 5 U.S.C. 605(b), the Board so certifies.

List of Subject in 12 CFR Part 220

Banks, Banking, Brokers, Credit, Margin, Margin requirements, Investments, Reporting and recordkeeping requirements, Securities.

PART 220—CREDIT BY BROKERS AND DEALERS

Accordingly, the Board amends 12 CFR Part 220 (Regulation T) as set forth below:

1. The authority citation for 12 CFR Part 220 is revised to read as follows:

Authority: Secs. 3, 7, 8, 17 and 23 of The Securities Exchange Act of 1934, as amended (15 U.S.C. 78c, 78g, 78h, 78q and 78w).

2. Section 220.9 is amended by revising the heading and by adding a new paragraph (a)(4) as set fort below:

§ 220.9 Nonsecurities Credit and Employee Stock Ownership Account.

(a) * * *

(4) Extend and maintain credit to employee stock ownership plans without regard to the other sections of this part.

* * * * *

By order of the Board of Governors of the Federal Reserve System, June 19, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-15359 Filed 6-25-85; 8:45 am]

BILLING CODE 6210-01-M

RAILROAD RETIREMENT BOARD

20 CFR Part 200

Regulation To Govern the Disclosure of Contract Proposals Under the Freedom of Information Act

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) amends § 200.3 of its regulations, which implements the Freedom of Information Act, to provide certain procedures which the agency will follow in handling requests for business information. The Freedom of Information Act exempts from mandatory disclosure certain commercial and financial information maintained by agencies. The Board maintains such information primarily in the form of contracts, contract bids, and related materials and occasionally receives from the public requests under the Freedom of Information Act for such information. The amendment provides that the submitter of business information shall be informed when a request for information has been

received and that the submitter shall be provided the opportunity to state his or her opinion as to whether the information should be released or withheld.

EFFECTIVE DATE: June 26, 1985.

FOR FURTHER INFORMATION CONTACT: Steven A. Bartholow, Deputy General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751-4935 (FTS 387-4935).

SUPPLEMENTARY INFORMATION: The Board published this rule as a proposed rule on March 1, 1985, and invited public comment (50 FR 8341-8342). No comments were received by the Board on the proposed rule.

Under the Freedom of Information Act the public may request information maintained by Federal agencies and agencies must grant such requests unless the information falls within one of the exemptions provided in the Act. The Freedom of Information Act provides an exemption for "trade secrets and commercial or financial information obtained from a person and privileged or confidential." It is not always clear that business information that is requested falls within this exemption and the views of the business submitter are often needed to correctly determine the applicability of this exemption in a particular case. The amendment provides a mechanism for soliciting the views of the submitter in making the determination and requires that such views be considered by the Board in deciding whether to disclose or withhold the information.

The Board has determined that this is not a major rule for purposes of Executive Order 12291. Therefore, no Regulatory Impact Analysis is required. Section 200.3(n)(2) contains a reporting requirement that is subject to OMB review under the Paperwork Reduction Act of 1980. In accordance with § 3504(h) of that Act, the Board will submit this reporting requirement to OMB for review.

List of Subjects in 20 CFR Part 200

Railroad retirement, Railroad unemployment insurance, Freedom of information, Government contracts, Government procurement.

PART 200—[AMENDED]

Title 20 CFR Part 200 is amended as follows:

1. The authority citation for Part 200 is revised to read as follows:

Authority: 45 U.S.C. 231f and 45 U.S.C. 362, unless otherwise noted.

Title 20 CFR § 200.3 is amended as follows:

2. The Authority citation for § 200.3 is revised to read as follows:

Authority: 5 U.S.C. 552.

3. Section 200.3 is amended by adding a new paragraph (n) to § 200.3 to read as follows:

§ 200.3 [Amended]

* * * * *

(n) *Special procedures for handling requests for business information:*

(1) The Freedom of Information Act exempts from mandatory disclosure matters that are "trade secrets and commercial or financial information obtained from a person and privileged or confidential * * *." The Board maintains records that may include information within this exception and to protect the rights of submitters of business information with respect to the confidentiality of such information, all requests for records or information contained in contract bids, contract proposals, contracts, and similar business information documents shall be handled in accordance with the procedures established by this paragraph.

(2) When the Executive Director or an individual authorized to grant or deny requests under the Freedom of Information Act receives a request for business information, the Executive Director or other individual shall promptly provide the person who submitted the information to the Board with written notice that a request for the information has been made. The notice shall specify what record or information has been requested and shall inform the business submitter that the submitter may, within ten working days after the date of the notice, file a written objection to disclosure of the information or portions of the information. The written objection to disclosure shall be addressed to the individual whose name appears in the notification and shall specify the portion or portions of the information that the submitter believes should not be disclosed and state the grounds or bases for objecting to disclosure of such portion or portions. No written notice to the business submitter shall be required under this subparagraph if it is readily determined that the information will not be disclosed or that the information has lawfully been published or otherwise made available to the public.

(Approved by the Office of Management and Budget under Control No. 3220-0150)

(3) In determining whether to grant or deny the request for the business information, the official or entity making the determination shall carefully consider any objection to disclosure made by the submitter of the information in question.

(4) If a determination is made to disclose information with respect to which the business submitter has filed an objection to disclosure, the official or entity making the determination shall, no later than ten working days prior to the date on which disclosure of the information will be made, provide the submitter with written notice of the determination to disclose. The written notice shall state the reasons why the submitter's grounds for objecting to disclosure were rejected and inform the submitter of the date on which the information is to be disclosed.

(5) The Board shall promptly notify the business submitter of any suit commenced under the Freedom of Information Act to compel disclosure of information which he or she submitted to the Board.

Dated: June 18, 1985.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 85-15309 Filed 6-25-85; 8:45 am]

BILLING CODE 7905-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject To Certification; Fenbendazole Paste

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two supplemental new animal drug applications (NADA's) filed by American Hoechst Corp., providing for use of fenbendazole paste for the control of arteritis caused by the fourth stage larvae of *Strongylus vulgaris* in horses and for concomitant use with trichlorfon as an anthelmintic for horses.

EFFECTIVE DATE: June 26, 1985.

FOR FURTHER INFORMATION CONTACT: Sandra Woods, Center for Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: American Hoechst Corp., Animal Health Division, Route 202-206 North, Somerville, NJ 08876, has filed two supplements to NADA 120-648, Panacur® (fenbendazole) Paste 10%. The supplements provide for the use of the drug for the control of arteritis caused by the fourth stage larvae of *Strongylus vulgaris* in horses and for concomitant use with trichlorfon as an anthelmintic for horses. The supplements are approved and the regulations are amended to reflect the approvals. The basis for the approvals is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of these applications may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of approving the use of fenbendazole for control of arteritis caused by fourth stage larvae of *Strongylus vulgaris* in horses and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(4).

The agency has determined under 21 CFR 25.24(d)(1)(ii) (April 26, 1985, 50 FR 16636) that approval for concomitant use of fenbendazole with trichlorfon as an anthelmintic for horses is an action of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs, oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 520 is amended as follow:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. In § 520.905c by redesignating paragraphs (d)(1)(i), (ii), and (iii) as (d)(1)(i) (*a*), (*b*), and (*c*), by revising paragraph (d)(1)(i)(*a*), and adding new paragraphs (d)(1)(ii) and (e) to read as follows:

§ 520.905c Fenbendazole paste.

* * * * *

(d) *Conditions of use*—(1) *Horses*—(i)(*a*) *Amount.* 2.3 milligrams per pound of body weight (one 2.5-gram fenbendazole syringe for a 1,100-pound horse). For foals and weanlings (less than 18 months of age), 4.6 milligrams per pound of body weight (one 2.5-gram fenbendazole syringe for each 550 pounds of body weight).

* * * * *

(ii)(*a*) *Amount.* 4.6 milligrams per pound of body weight (one 2.5-gram fenbendazole syringe for a 550-pound horse) daily for 5 days.

(*b*) *Indications for use.* For control of arteritis caused by the fourth stage larvae of *Strongylus vulgaris.*

(*c*) *Limitations.* Treatment should be initiated in the spring and repeated in 6 months. Do not use in horses intended for food. Consult your veterinarian for assistance in the diagnosis, treatment, and control of fourth stage larvae of *S. vulgaris.*

* * * * *

(e) *Special considerations.* Fenbendazole paste 10 percent may be used concomitantly with approved forms of trichlorfon for the indications provided in paragraph (d)(1)(i) of this section and for treating infections of stomach bots as provided in § 520.2520.

Dated June 17, 1985.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 85-15282, Filed 6-25-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[T.D. 8028]

Information Returns Required by Officers, Directors and Shareholders of Foreign Personal Holding Companies; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the **Federal Register** publication beginning at 50 FR 23407 of the final regulations that were the subject of Treasury Decision 8028 relating to the information returns that are required of officers, directors, and shareholders of foreign personal holding companies.

EFFECTIVE DATE: The correction is effective July 5, 1985.

FOR FURTHER INFORMATION CONTACT: Marnie J. Carro of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, (Attn: CC:LR:T). Telephone 202-566-3289 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On June 4, 1985, the **Federal Register** published final regulations relating to the amendments made to the Internal Revenue Code of 1954 by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) which concern information returns required of officers, directors, and shareholders of foreign personal holding companies.

Need for Correction

As published, Treasury Decision 8028 contains an error in the designation of a section and an error in the designation of an item within a subparagraph. On page 23408, in the third column, there are two separate items that are designated § 1.6035-1(a)(2)(iv). The second of these should be designated § 1.6035-1(a)(2)(v).

On page 23410, in the first column, the section that is designated § 301.6579-1 should be designated § 301.6679-1.

Correction of Publication

Accordingly, the publication of Treasury Decision 8028, which was the subject of FR Doc. 85-13227 (June 4, 1985), is corrected as follows:

§ 1.6035-1 [Corrected]

Paragraph 1. On page 23408, in the third column, the second of the two

paragraphs in § 1.6035–1(a)(2) that is designated "(iv)" is corrected to read "(v)".

§ 301.6579–1 [Corrected]

Par. 2. On page 23410, in the first column, the section that is designated "§ 301.6579–1" is corrected to read "§ 301.6679–1".

Peter K. Scott,
Director, Legislation and Regulations Division.

[FR Doc. 85–15368 Filed 6–25–85; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD13 85–05]

Regatta; Annual Clarkston, WA, Limited Hydroplane Races

Correction

In FR Doc. 85–13924 beginning on page 24191 in the issue of Monday, June 10, 1985, make the following correction:

§ 100.1302 [Corrected]

On page 24191, third column, § 100.1302(a), fourth line, "not" should read "be".

BILLING CODE 1505–01–M

VETERANS ADMINISTRATION

38 CFR Part 36

Loan Guaranty; Condominium Regulations

AGENCY: Veterans Administration.

ACTION: Technical amendments.

SUMMARY: This document amends Veterans Administration regulations to include OMB control numbers at the places in the regulations where current information collection requirements are described.

EFFECTIVE DATE: April 12, 1985.

FOR FURTHER INFORMATION CONTACT: Celia Fasone, (202) 389–2340.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirements contained in the regulatory sections listed below have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and assigned the control number contained in the listing.

List of Subjects in 38 CFR Part 36

Reporting and recordkeeping requirements.

Text of the Amendments

Following the text of §§ 36.4357, 36.4360, and 43.4360a, add the following text:

(Information collection requirements approved by the Office of Management and Budget under control number 2900–0448)

(Pub. L. 96–511 (5 U.S.C. 3504))

Dated: June 12, 1985.

Nancy C. McCoy,
Chief, Directives Management Divison.

[FR. Doc. 85–14699 Filed 6–25–85 8:45 am]
BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–6–FRL–2842–3]

Approval and Promulgation of Implementation Plans; Texas Attainment Plan for Ozone in Harris County, TX

AGENCY: Environmental Protection Agency (EPA).

ACTION Final rule.

SUMMARY: This notice approves the State Implementation Plan (SIP) revisions for attainment of the ozone standard in Harris County (Houston). The approval is based on review of SIP revisions submitted on December 9, 1982, and revisions to the Harris County inspection and maintenance (I/M) program submitted on March 18, 1985. The intended effect of this action is to provide for attainment of the National Ambient Air Quality Standard for ozone as required under Part D of the Clean Air Act (CAA) Amendments of 1977.

EFFECTIVE DATE: Effective on July 26, 1985.

ADDRESSES: Incorporation by reference material is available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Region 6, Air & Waste Management Division, Air Branch, State Program Section, 1201 Elm Street, Dallas, Texas 75270

Environmental Protection Agency, Public Information Reference Unit, EPA Library, 401 M Street SW., Washington, D.C. 20460

The Office of the Federal Register, Room 8401, 1100 L Street NW., Washington, D.C.

Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

FOR FURTHER INFORMATION CONTACT: Carol D. Peters at the EPA Region 6 address above or call (214) 767–9862.

SUPPLEMENTARY INFORMATION:

Background

In 1978, Harris County, Texas was designated as a nonattainment area for ozone (O_3). In accordance with the requirements of the CAA Amendments of 1977 for such nonattainment areas, the State of Texas submitted a SIP revision in April 1979. The 1979 SIP demonstrated that the O_3 standard could not be met in Harris County by December 31, 1982, despite the implementation of all reasonably available control measures. On the basis of this demonstration, an extension until December 31, 1987, to attain the O_3 standard was requested by the State. EPA approved the request for an extension in the March 25, 1980, **Federal Register** (at 45 FR 19244). The 1979 strategy for O_3 in Harris County was conditionally approved by EPA in the March 25, 1980, **Federal Register** (at 45 FR 19244). After additional State submittals, EPA removed the conditions on the 1979 Harris County O_3 strategy. (See 44 FR 74830, 45 FR 52148, 46 FR 35642, and 46 FR 47444).

In order to demonstrate attainment of the O_3 standard by the extension date of December 31, 1987, the State submitted a SIP revision to EPA on December 9, 1982. Public hearings were held on the O_3 SIP on July 12, and 13, 1982. On February 3, 1983 (at 48 FR 5114), EPA proposed to disapprove the I/M portion of the revision and approve all other portions of the revision. The I/M program was proposed for disapproval because it did not achieve the minimum emission reduction requirement which EPA had found to be reasonably available. Consequently, it did not fulfill the reasonably available control technology (RACT) requirement of section 172(b)(3) of the CAA.

After extensive discussions with EPA, resolutions were adopted by the Texas Air Control Board (TACB) on November 18, 1983, and the Texas Department of Public Safety (DPS) on November 30, 1983, committing to the implementation of an upgraded parameter I/M program in Harris County, Texas. Subsequently, on December 9, 1983, TACB submitted these resolutions along with a draft SIP revision on the modified program to EPA. The TACB held a public hearing on January 25, 1984, for the SIP revision on the modified program, then adopted the regulations on April 6, 1984. On May 10, 1984, the DPS committee, by letter, to the TACB to enforce the Harris County I/M requirements against motorists in Harris

County. Subsequently, on May 11, 1984, the DPS adopted regulations governing the Harris County parameter I/M program. The TACB held a public hearing on July 23, 1984, on the DPS regulations and procedures to enforce the parameter I/M program in Harris County. The TACB adopted these regulations on November 9, 1984, and the Governor submitted them on March 18, 1985.

On August 3, 1984, EPA proposed to approve the State's revisions contingent upon the State adopting the revisions with the required rules and regulations. Also, the State was to correct any noted deficiencies, and submit them to EPA for incorporation into the SIP. The revisions submitted by the State fulfilled these requirements and has not substantially changed from those proposed in the draft.

Plan Review

A detailed description of the SIP and EPA's review is contained in the **Federal Register** notice proposing approval (August 3, 1984, 49 FR 31086) and in EPA's evaluation report,[1] which are available for review in the SIP Docket file (TX-82-9) at the EPA Region 6 office in Dallas, Texas. The 1982 SIP submission for O_3 in Harris County was reviewed by EPA in accordance with both the requirement of the 1982 Carbon Monoxide and Ozone Policy (46 FR 7182) published January 22, 1981, and the "General Preamble" for SIP Revisions for Nonattainment Areas published on April 4, 1979 (at 44 FR 20372).[2]

The SIP submission indicated that a 41% reduction in VOC emissions is needed to attain the O_3 standard in 1987. The SIP provided for controls which include a mix of stationary and mobile source controls to achieve a 44% reduction by 1987, thereby demonstrating attainment of the O_3 standard. The controls outlined in the plan were as follows:

- Stationary Source Controls will provide a net reduction of 30.7%
- Federal Motor Vehicle Control Program (emission controls installed as original equipment by the manufacturer) will provide a net reduction of 10.3%.
- Motor Vehicle I/M program will provide a net reduction of 2.9%.
- Transportation controls measures (TCMs) will provide a net reduction of 0.7%.

[1] EPA Review of Texas SIP Revision for Ozone in Harris County, revised February 1985.

[2] EPA published four additional notices supplementing the General Preamble in 1979: July 2, 1979 (44 FR 38583); August 28, 1979 (44 FR 50371); September 17, 1979 (44 FR 53761); and November 23, 1979 (44 FR 76182).

Data and Modeling Analysis

The TACB developed a base year 1980 emissions inventory for VOC of 231,250 tons and for NO_x of 202,644 tons. The base year VOC emissions were composed of 57.4% from point sources, 15% from area sources and 27.6% from mobile sources. The inventory and projections were developed in accordance with EPA guidelines and are considered adequate.

The State used air quality data from 1978 through 1980 at eight sites in the Houston area for modeling. Observed O_3 values ranged from 0.18 to 0.35 parts per million (ppm). The State used the City Specific Empirical Kinetic Modeling Approach (EKMA) to estimate the amount of reductions needed for attainment. A VOC reduction value of 41% needed to attain the 0.12 ppm O_3 standard was established by this analysis. The EKMA analysis was performed in accordance with EPA guidelines for the model (EPA-450/4-80-027, March 1981). The model performed acceptably well for each of the 40 cases run by TACB.

Stationary Source Control

According to EPA's policy, the stationary source portion of the 1982 SIP submittal must contain legally enforceable regulations which reflect the application of Reasonably Available Control Technology (RACT). The following sources must be included: (1) All sources of VOCs covered by a Control Technique Guideline (CTG) published by EPA and (2) all remaining major sources of VOC with the potential to emit 100 tons or more of VOC per year. EPA has published two series of CTG documents; i.e., Set I and Set II. Texas submitted RACT Regulations for the Set I and Set II CTG source categories on April 13, 1979, and July 25, 1980, respectively. EPA approved these regulations on March 25, 1980 (at 45 FR 19231); July 10, 1981 (at 46 FR 35642); September 29, 1981 (at 46 FR 47544); and May 3, 1982 (at 45 FR 18857). Therefore, the existing Texas SIP contains RACT regulations for all VOC sources covered by CTG documents.

If EPA issues additional CTG documents in the future, the State will be required to adopt and submit legally enforceable regulations for the source categories covered therein. The continued satisfaction of the Part D requirements of the CAA for adoption and submittal of the O_3 portion of the SIP is contingent on this condition (at 40 CFR 52.2273).

The 1982 SIP submittal also contained proposed revisions to the General Rules and Regulation V, entitled, "Control of Air Pollution from Volatile Organic Compounds," which, according to the State, will result in VOC emission reductions from additional source categories or process types. The revisions to Regulation V includes additional requirements for large bulk terminals and vent gas streams, and new requirements for fugitive emission control in synthetic organic chemical, polymer, and resin manufacturing plants located in Harris County. The State also made clarifying and editorial changes to other portions of Regulation V. The revisions to the General Rules consist of new terms and their definitions and the revision of several predefined terms. The State has specified that these measures, in addition to the Set I and Set II VOC RACT controls, will result in the control of all major stationary sources in Harris County.

EPA's review of the regulations and the State's determination that all major stationary sources are controlled, is discussed in detail in the evaluation report referenced above. Based on the Agency's review, EPA has determined that this portion of the SIP submittal meets the requirements of EPA's 1982 ozone policy. Notwithstanding EPA's approval of the revisions to Regulation V, EPA reiterates its existing policy that any exemption or alternative control method granted to a specific source by the Executive Director of the Texas Air Control Board, under these regulations, must be submitted to EPA as a SIP revision.

Transportation Control Measures

The submittal includes provisions for a transportation control plan (TCP) designed to reduce VOC mobile source emissions. The TCP includes a commitment to implement or continue operation of the following transportation control measures (TCMs):

A. Local bus service expansion;
B. New transit maintenance facilities;
C. Park and Ride sites;
D. Park and ride express bus service;
E. Construction of High Occupancy Vehicle Lanes; and
F. Continuation and expansion of carpool/vanpool program.

The submittal provides details on a plan for monitoring annual emissions reduction from the TCMs. The emissions reduction will be established based on the monitoring of surrogate traffic parameters. The results of the monitoring effort will be used by the TACB to update the emissions inventory annually and ensure that reasonable further progress (RFP) requirements are being met. If it is determined that RFP is not being maintained due to emission

reduction shortfalls, contingency provisions are provided in the submittal for identifying additional TCMs and postponing of transportation projects which have adverse air quality impacts. The submittal also includes procedures for an annual evaluation of the conformity of transportation planning programs and projects with the SIP.

The transportation provisions of the submittal are considered by EPA to fulfill the requirements of the January 22, 1981, SIP policy guidance in a satisfactory manner. A detailed evaluation of all elements of the TCP is contained in the evaluation report.

Vehicle Inspection and Maintenance (I/M)

Section 172(b)(11)(B) of the CAA requires all areas that receive extensions beyond 1982 to attain the ozone O_3 or carbon monoxide standards to establish a schedule for implementation of a vehicle I/M program. Section 172(c) requires the SIP revisions to contain enforceable rules and regulations for implementing the I/M program.

EPA has developed a detailed policy governing many aspects of these required I/M programs. The basic elements of this policy are summarized in the January 22, 1981, policy for SIPs for extension areas (at 47 FR 7182). More detail is provided in the April 4, 1979, "General Preamble" in SIP Revisions for Nonattainment Areas (at 44 FR 20372), and a July 17, 1978, memorandum to the EPA Regional Administrators from David Hawkins, Assistant Administrator for Air, Noise and Radiation. (This memorandum is specifically referenced in the January 22, 1981 notice at 47 FR 7190.)

The EPA policy memorandum described above also contains determinations of other CAA requirements for nonattainment areas as they relate to I/M. For example, section 172(b)(2) requires plans for nonattainment areas to implement all reasonably available control measures as expeditiously as practicable. In addition, EPA believes that I/M programs that are capable of reducing VOC exhaust emissions from light-duty motor vehicles (LDV) by 25% by 1987 are reasonably available within the meaning of this provision. This minimum reduction requirement is based on I/M programs that were operating at the time of the enactment of the 1977 CAA Amendments. EPA also believes that a 25% reduction in VOC exhaust emissions represents RACT as required by section 172(b)(3).

The State of Texas implemented a vehicle parameter I/M program in Harris County, Texas (Houston), on July 1, 1984. The Houston parameter I/M program places emphasis on the reduction of excess emissions resulting because of disablement of vehicle emission control systems. The program includes an annual vehicle inspection for tampering and misfueling, a mechanic training program, a public awareness program and an intensified enforcement of State regulations against tampering and misfueling. The program developed by Texas does not include a tailpipe emissions test. The EPA has evaluated the various components of the Houston program and is approving the program.

The program which Texas has committed to implement is an improved version of a parameter I/M program initially proposed in the 1982 O_3 SIP revisions for Harris County submitted in December 1982. The initial parameter I/M program was proposed for disapproval by EPA in a Federal Register rulemaking on February 3, 1983 (at 48 FR 5114). It was not approvable because it did not achieve the minimum emission reduction required to fulfill the RACT requirement of section 172(b)(3) of the CAA.

Parameter I/M Program Description

The modified Texas parameter I/M program includes four major components. These components are the following:

1. An annual inspection of vehicles for tampering with the emission control system and fuel-switching and mandatory repair;
2. A Public Information Program;
3. A Mechanic Training Program; and
4. Enforcement of Stronger State Anti/tampering-misfueling regulations.

A special feature of the program is a check for misfueling through a visual inspection of the fuel inlet restrictor and a test of the tailpipe for deposits of lead. The tailpipe test for lead will be performed with a lead sensitive paper such as the Plumbtesmo.[3] Vehicles that fail the test for lead in the tailpipe or the inlet restrictor inspection will be required to replace the catalytic converter.

The annual vehicle inspection is to be performed as part of the compulsory vehicle safety inspection program administered by the DPS. The legal authority for the program comes from Article XV of the Texas Uniform Act Regulating Traffic on Highways, which requires an annual inspection of all motor vehicles in the State of Texas. Furthermore, Article XV contains provisions to establish a parameter I/M program in any county in Texas that does not meet the national ambient air quality standards and where the TACB requests the DPS to implement such a program.

The annual safety inspection requirement will be enforced through a sticker system. The sticker requirement can be enforced by any State or Harris County law enforcement authority. Failure to have a valid sticker could result in a fine of up to $200.

The public information (PI), mechanic training (MT) and anti-tampering/misfueling enforcement programs, which are to be developed and administered by the TACB, will support and complement the annual vehicle inspection requirement. The PI program will be designed to inform Harris County residents of the annual inspection requirements and to develop public support for, and acceptance of, proper operation of vehicle emission control devices. The MT program will provide in-service mechanics and auto service technicians with instruction on maintenance and repair of emission control systems with emphasis on electronic control systems on new technology vehicles. The anti-tampering/misfueling enforcement programs, which will include inspection and surveillance of retail fuel outlets and auto service facilities, will enable the State to actively work to prevent the occurrence of tampering and misfueling.

Program Evaluation

The modified Houston parameter I/M program includes the same general components as the program initially proposed in the 1982 O_3 SIP submittal. However, significant changes have been made to the program to increase the emission reduction. The most significant additions to the program are the inspection of the catalytic converter, inlet restrictor and a test for lead in the tailpipe on 1980 and later vehicles. In the initial program, the inspection of the catalytic converter and fuel inlet restrictor was proposed for 1984 and later automobiles, and the test for lead deposits in the tailpipe was not included in the inspection. The inspection of 1980 and later vehicles and the mandatory repair will correct a large amount of previous tampering and will provide a significant deterrence to future tampering and misfueling. The initial program also did not include the inspection of light duty trucks (LDTs). Since LDTs represent a large percentage of the Harris County fleet (roughly 26 percent) and the overall tampering and

[3] Mention of trade names or specific products does not constitute endorsement by the Environmental Protection Agency.

misfueling rate for LDTs is roughly double (approximately 25 percent) the rate for automobiles, the inclusion of these vehicles in the inspection significantly increases the emission reduction. Further, the initial program did not require the replacement of catalytic converters due to misfueling. EPA tampering studies indicates 8 to 10 percent of vehicles in Harris County have been misfueled, and that misfueling increases VOC emissions by up to 400 percent. The replacement of catalytic converters disabled by previous misfueling and the deterrence of future misfueling will significantly increase the emission benefits of the Houston parameter I/M program.

Additionally, the tailpipe test for lead will increase the effectiveness of the test for misfueling so that roughly 80 percent of the misfueling will be detected. The test for misfueling through the tailpipe test for lead will be less easily circumvented than the inlet restrictor check and will detect and deter a significant amount of misfueling.

The modified Houston parameter I/M program is projected to achieve the 25 percent reduction in VOC exhaust emissions which is established by EPA policy as RACT for an I/M program. All of the projected reduction from the program results from the annual vehicle inspection and mandatory repair portion of the program, although the State will be implementing additional features to improve its effectiveness. The emissions reductions were estimated by EPA using methodology outlined in the report entitled "Anti-Tampering and Anti-Misfueling programs to Reduce In-Use Emissions From Motor Vehicles", and included in the Mobile-III Emission Factor Model. Details on the estimated VOC emission reductions projected from the parameter I/M program are included in the EPA evaluation report on the 1982 O_3 SIP for Harris County and supporting documents which are available in the official docket.

EPA finds that the Houston parameter I/M program fulfills the national effectiveness requirements established by the I/M policy and the statutory requirements of Section 172(b)(3).

Conclusions on I/M

EPA studies have shown tampering with Emission Control Systems on motor vehicles and misfueling results in significant increases in VOC, carbon monoxide, and nitrogen oxide emissions from in-use vehicle fleets. The parameter I/M program proposed for Harris County contains all the elements recommended by EPA for an anti-tampering/misfueling program. The annual vehicle inspection will provide an effective method of detecting tampered or misfueled vehicles and the mandatory repair requirement will correct a significant amount of previous tampering and misfueling while serving as an effective deterrent to future tampering and misfueling. The State has committed to actively enforce the inspection requirement, train and certify inspectors in the inspection requirements and conduct affirmative quality control over inspections and recordkeeping. On this basis, the EPA established that the vehicle inspection has the potential to correct significant amounts of existing tampering and misfueling and deter a significant amount of future tampering and misfueling. As previously noted, the reduction in VOC emissions from the Harris County program satisfies the minimum emission reduction requirements in the I/M policy and the RACT requirement of 172(b)(3).

Further, the State implemented the modified program on July 1, 1984, which EPA has determined to be as expeditious as practicable. The schedule therefore, fulfills the requirement of section 172(b)(2). Additionally, the program satisfies all other policy requirements and critical program standards outlined for an I/M program in the January 22, 1981, **Federal Register** on SIP requirements (at 47 FR 7182). Therefore, EPA is approving the I/M portion of the 1982 Texas SIP.

Reasonable Further Progress

EPA has determined that for each year from 1982 through 1987 there should be reasonable further progress (RFP) toward attainment of the standard. The State committed to track VOC emission in Houston and report annually on RFP to assure that these reductions will occur.

Public Comments

During the comment period, EPA received two comments. Both commentors endorsed EPA's proposed approval of the I/M program for Harris County.

Regulatory Process

The Office of Management and Budget has exempted this rule from the requirement of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judical review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2))

List of Subjects of 40 CFR Part 52

Air pollution control, Ozone, Nitrogen dioxide, Hydrocarbons, Intergovernmental relations, Incorporation by reference.

Authority: Sections 110(a), and 301(b) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(b)).

Note.—Incorporation by reference of the State Implementation Plan for the State of Texas was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: May 22, 1985.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart SS—Texas

1. The authority citation for Part 52 continues to read as follows:

Authority: 43 U.S.C. 7410(a) and 7601(b).

2. Section 52.2270 is amended by adding paragraph (c)(61) as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(61) Revisions to the plan for attainment of the standard for Ozone in Harris County were submitted by the Governor on December 9, 1982, January 3, 1984, and March 18, 1985.

(i) Revisions adopted on December 3, 1982, include the following changes to Regulation V and the general rules. New sections or subsections 115.105(7), 115.111(2)(b), 115.111(2)(c), 115.111(2)(d), 115.163, 115.164, 115.193(c)(5), 115.193(c)(6), 115.271, 115.272, 115.273, 115.274, 115.275, and 115.421 are added. Revisions to 115.106(b), 115.106(c), 115.113, 115.141, 115.142, 115.161, 115.162, 115.191(9)(a)(i), 115.251(a)(1), 115.252(a)(4), 115.252(b), 115.252(c), 115.253(a), 115.254, 115.255(c), and 115.401(b) were made. Section 101.1 of the general rules was revised to include definitions of new terms. The revisions also included the following commitments: emissions tracking, pages 87–88; projections of reasonable further progress, pages 91 and 93; and emission reduction commitments for transportaton control measures, Appendix V.

(ii) Revisions adopted on September 9, 1983, include revisions to Regulation IV. New sections or subsections 114.1(e), 114.1(f), 114.3, and 114.5 are added.

(iii) Revisions adopted on November 9, 1984 include the following:

(A) Recordkeeping and record submittal requirements, pages 12–13,
(B) Mechanics training program commitments, pages 17–18,
(C) Public Awareness Plan commitments, pages 19–20,
(D) Implementation Schedule, page 25(1–3),
(E) Reasonable Further Progress Chart, Table 13, and
(F) Department of Public Safety and Texas Air Control Board Rules and Regulations, Texas Vehicle Inspection Act Article XV, and Documentation to Authorize and Support the Implementation and Enforcement of the Texas Vehicle Parameter Inspection and Maintenance Program, Appendix X, containing the following documents:

—Senate Bill 1205
—Letters of commitment from Texas Department of Public Safety, City of Houston Police Department, and Harris County Sheriff
—Parameter Vehicle Emission Inspection and Maintenance Rules and Regulations for Official Vehicle Inspection Stations and Certified Inspectors, July 1, 1984
—Texas Motor Vehicle Laws, 1981–1982
—Rules and Regulations for Official Vehicle Inspection Stations and Certified Inspectors, November 11, 1983, Sections A, B, C pages C–1, C–16, C–17, C–18, C–26, C–27, and C–28, D, and E pages E–1, E–6, E–7, E–8, and E–9.

[FR Doc. 85–12836 Filed 6–25–85; 8:45 am]
BILLING CODE 6560–50

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105–53

Statement of Organization and Functions

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is revising its statement of organization and functions to reflect its current organizational structure. This revision reflects the separation of the National Archives and Records Service (now the National Archives and Records Administration) from GSA, updates information on the Business Service Centers and adds responsibility for publishing the Catalog of Federal Domestic Assistance. This regulation is informational in nature and is published in accordance with the Freedom of Information Act.

EFFECTIVE DATE: June 26, 1985.

FOR FURTHER INFORMATION CONTACT: Sylvester H. Kish, Director of Organization and Staff Utilization (202–566–0086).

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of E.O. 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and the consequence of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 105–53

Computer technology, Federal buildings and facilities, Government property, Government property management, Organization and functions (Government agencies), Surplus government property, Strategic materials.

PART 105–53—STATEMENT OF ORGANIZATION AND FUNCTIONS

1. The authority citation for Part 105–53 continues to read as follows:

Authority: 5 U.S.C. 552(a)(1), Pub. L. 90–23, 81 Stat. 54, sec. (a)(1); 40 U.S.C. 486(c), Pub. L. 81–152, 63 Stat. 390 sec. 205(c).

2. The table of contents for Part 105–53 is amended by removing and reserving one entry as follows:

Sec.
105–53.146 [Reserved]

3. Section 105–53.112 is revised to read as follows:

§ 105–53.112 General statement of functions.

The General Services Administration, as a major policy maker, provides guidance and direction to Federal agencies in a number of management fields. GSA formulates and prescribes a variety of Government-wide policies relating to procurement and contracting; real and personal property management; transportation, public utilities and telecommunications management; automated data processing management; records management; the Nation's emergency defense supplies; the use and disposal of property; and the information security program. In addition to its policy role, GSA also provides a variety of basic services in the aforementioned areas to other Government agencies. A summary description of these services is presented by organizational component in Subpart B.

§ 105–53.118 [Amended]

4. Section 105–53.118 is amended by revising paragraphs (f), (j), and (l) and adding paragraph (m) as follows:
§ 105.53.118 Location of material available for public inspection.

* * * * *

(f) Business Service Center, General Services Administration, Richard B. Russell Federal Building, U.S. Courthouse, 75 Spring Street, SW., Atlanta, GA 30303. Telephone: 404–221–5103.

* * * * *

(j) Business Service Center, General Services Administration, Building 41, Denver Federal Center, Denver, CO 80225. Telephone: 303–236–7409.

* * * * *

(l) Business Service Center, General Services Administration, 300 North Los Angeles Street, Room 3259, Los Angeles, CA 90012. Telephone: 213–688–3210.

(m) Business Service Center, General Services Administration, 440 Federal Building, 915 Second Avenue, Seattle, WA 98174. Telephone: 206–442–5556.

* * * * *

5. Section 105–53.120 is revised as follows:

§ 105–53.120 Addresses and telephone numbers.

The Office of the Administrator; Office of Inspector General; GSA Board of Contract Appeals; Information Security Oversight Office; the Office of the Associate Administrator for Administration; Office of Operations; Office of Policy and Management Systems; Office of Ethics; Office of the Executive Secretariat; Office of Small and Disadvantaged Business Utilization; Office of Program Control; Office of Acquisition Policy; Office of the Comptroller; Office of Information Resources Management; Federal Property Resources Service; and Public Buildings Service are located at 18th and F Streets, NW., Washington, DC 20405. The Office of Federal Supply and Services is located in Crystal Mall Building 4, 1941 Jefferson Davis Highway, Washington, DC 20406. The telephone number for the above addresses is 202–655–4000. The addresses of the eleven regional offices are provided in §105–53.151.

6. Section 105–53.143 is amended by revising paragraph (b) as follows:

§ 105–53.143 Office of Information Resources Management.

* * * * *

(b) *Functions.* OIRM is responsible for directing and managing Government-wide programs for the procurement and use of automatic data processing, office information systems, and telecommunications equipment and services; developing and coordinating Government-wide plans, policies, procedures, regulations, and publications pertaining to ADP and telecommunications activities; managing and operating the Automatic Data Processing (ADP) Fund and the Federal Telecommunications (FT) Fund; managing and operating the Federal Telecommunications System (FTS); planning and directing programs for improving Federal records and information management practices Government-wide; managing and operating the Federal Information Centers and the Consumer Information Center; publishing the Catalog of Federal Domestic Assistance Programs and operating the Federal Assistance Program retrieval system; and developing and overseeing GSA policy concerning internal automated information systems, equipment, and facilities.

* * * * *

§ 105–53.146 [Reserved]

7. Section 105–53.146 is removed and reserved.

8. Section 105–53.150 is revised to read as follows:

§ 105–53.150 Organization and functions.

Regional offices have been established in 11 cities throughout the United States. Each regional office is headed by a Regional Administrator, who is responsible to the Associate Administrator for Operations for the overall direction and administration of the regional office and for the total performance of GSA programs and activities within the region. The overall organizational structure for each region consists of the following: Regional Administrator, Executive Assistant, Office of Regional Counsel, Office of Project Control and Oversight, Office of Administration, Office of Public Buildings and Real Property, Office of Federal Supply and Services, and Office of Information Resources Management. In certain instances, regional offices are assigned national or interregional jurisdiction for a specific program. The geographic composition of each region is shown in § 105–53.151.

Dated: June 18, 1985.

Patricia Q. Schoeni,

Associate Administrator for Administration.

[FR Doc. 85–15339 Filed 6–15–85; 8:45 am]

BILLING CODE 6820–30–M

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41 CFR Parts 201–2, 201–24, 201–30

[FIRMR Amdt. 2]

Revision of FIRMR ADP Performance Validation Provisions

AGENCY: Office of Information Resources Management, GSA.

ACTION: Final rule.

SUMMARY: This regulation amends the Federal Information Resources Management Regulation (FIRMR) relating to agency performance validation of ADP equipment systems. The regulation requires agencies to select and use appropriate ADP equipment system validation techniques while removing arbitrary regulatory requirements on the use of benchmarking. The intent is to increase economy and efficiency in the acquisition of Federal ADP equipment systems.

EFFECTIVE DATE: This regulation is effective August 26, 1985, but may be observed earlier.

FOR FURTHER INFORMATION CONTACT: Carolyn A. Thomas, Policy Branch (KMPP), Office of Information Resources Management, telephone (202) 566–0194 or FTS, 566–0194.

SUPPLEMENTARY INFORMATION: (1) An October 22, 1982, General Accounting Office (GAO) audit report ("Benchmarking: Costly and Difficult, But Often Necessary When Buying Computer Equipment or Services", GAO/AFMD–83–5) found that benchmarking was the most commonly used tool to validate computer system performance. The report further found the benchmark process to be very costly and that its effectiveness as a validation tool was dependent upon the extent to which it could be made representative of projected workload. The report concluded that in some circumstances, more cost-effective validation tools are indicated, and recommended a revision to Federal regulations to discourage the use of benchmarking as a performance validation tool for low dollar ADP acquisitions.

(2) In September 1982, GSA contracted with the Federal Computer Performance Evaluation and Simulation Center (FEDSIM) for a technical study of alternative performance validation techniques. The FEDSIM study (NA–82060–GSA), completed in May 1984, generally supported GAO's conclusions and recommendations.

(3) Several sections of the FIRMR relating to agency performance validation of proposed ADP equipment systems are amended to allow agencies more freedom in selecting and using appropriate ADP equipment capability and performance validation techniques based on the risks associated with the technique and how those risks impact the accomplishment of agency mission needs. Explanation of changes:

a. Section 201–2.001 is amended by adding definitions for capability validation and performance validation.

b. Section 201–24.213 is amended to change the entry, change paragraph (c) so that performance validation based solely on simulation modeling may be stipulated in specifications for compatibility-limited requirements only, and remove paragraph (d).

c. Section 201–24.215 is amended to change the entry and revise the text to allow agencies to use whatever ADP equipment system capability and performance validation techniques as are feasible and necessary to reduce the risks of adversely impacting the accomplishment of agency mission needs if insufficient or excessive ADP equipment capability is acquired.

d. Sections 201–30.013–3 and 201–30.013–4 are added to identify and provide guidance on issues that should be considered when selecting capability or performance validation techniques for ADP equipment systems and ADP services, respectively.

(4) A notice of proposed rulemaking for this amendment was published in the **Federal Register** (50 FR 7356, February 22, 1985) indicating the availability of draft changes for review and comment by interested parties. All comments received were considered. The proposed amendment of § 201–30.007 (appearing in Temp. Reg. 8) by adding paragraphs (d)(10) and (d)(11) (redesignated from paragraph (c) in Temp. Reg. 11) will be accomplished when the referenced temporary regulations are codified.

(5) The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for, and the consequences of this rule. The rule is written to ensure maximum benefits to Federal agencies. This is a Government-wide regulation that will have little or no net cost effect on society.

List of Subjects in 41 CFR Chapter 201

Government information resources activities, Government procurement.

Chapter 201 of Title 41 of the Code of Federal Regulations is amended as set forth below:

PART 201-2—DEFINITIONS OF WORDS AND TERMS

1. The authority citation for Part 201-2 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

2. Section 201-2.001 is amended by adding (alphabetically) definitions to read as follows:

§ 201-2.001 Definitions.

* * * * *

"Capability validation of an ADP equipment system" means the technical verification of the ability of a proposed ADPE configuration, replacement component, or the features or functions of its software, to satisfy functional requirements. The intent of capability validation is to ensure that the proposed ADP resource can provide the required functions. ADP performance requirements are not implied or measured in the validation. Examples of ADPE capability validation include:

(a) Operational Capability Demonstrations (OCDs) of the functions of the hardware, operating system or support software;

(b) Verification of conformance with pertinent ADP standards;

(c) Expert examination of the technical literature supplied with the offer;

(d) Contacts with other users of the proposed ADPE; and

(e) Vendor certification of conformance with the functional requirements.

* * * * *

"Performance validation of an ADP equipment system" means the technical verification of the ability of a proposed ADPE configuration or replacement component (such as a new Central Processing Unit (CPU) or a new external data storage subsystem) to handle agency-specified workload volumes (present and expected) within agency-determined performance time constraints. Examples of ADPE performance validation techniques include:

(a) Timed execution of the existing agency programs, transactions and data files on the proposed equipment;

(b) Execution with synthetically-generated workloads;

(c) Remote terminal emulation with simulated on-line workloads;

(d) Acceptance testing with present operational software, data files and workloads;

(e) "Stress testing" with exaggerated workload volumes;

(f) Modeling of the interaction of the new ADPE and its workload;

(g) Benchmarking as defined in FIPS PUBS 42-1 and 75; and

(h) Simulation modeling of ADP equipment system performance, defined to mean the development and use of computer models for the study of actual or postulated ADP workloads on simulated ADP equipment systems.

* * * * *

PART 201-24—ACQUISITION POLICIES

1. The table of contents of Part 201-24 is amended by revising the entries for §§ 201-24.213 and 201-24.215; and the authority citation for the part continues to read as follows:

Sec.

201-24.213 Restrictions on the use of simulation modeling in ADP equipment system procurements.

201-24.215 Use of capability and performance validation in ADP equipment system procurements.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

2. Section 201-24.213 is revised to read as follows:

§ 201-24.213 Restrictions on the use of simulation modeling in ADP equipment system procurements.

(a) Data structured for simulation purposes shall not be used as the only means of describing data processing requirements in solicitation documents. Simulation data shall be accompanied by a narrative description of the ADP objectives and workload and any available application logic diagrams.

(b) Solicitation documents shall not be structured in such a way as to require offerors to use a specific computer system simulator in order to submit their offers. When offerors submit computer simulation as part of their offers, they shall be required to describe clearly the simulation used and the make and model of the computer on which the simulation was run.

(c) Except for compatibility-limited requirements, performance validation based solely on simulation modeling of ADP equipment system performance shall not be stipulated in specifications.

3. Section 201-24.215 is revised to read as follows:

§ 201-24.215 Use of capability and performance validation in ADP equipment system procurements.

(a) Agencies shall use ADP equipment systems capability validation (including operational capability demonstrations) and performance validation techniques (including benchmarks) in contracting for ADP equipment systems, components, or software. Agencies shall use capability and performance validation techniques as are feasible and necessary to reduce risks that:

(1) Insufficient capacity, inadequate functional capability, or degraded ADP performance may adversely impact the accomplishment of agency mission needs over the system life; or

(2) Excessive capacity or capability may be uneconomical.

(b) Agencies shall adopt a performance validation plan which is cost-effective and provides adequate protection against the adverse impact on agency mission needs of acquiring oversized or undersized ADPE capacity. When benchmarking is adopted as part of the performance validation plan, solicitations, where possible, should identify those programs that are representative and that require the minimum amount of reprogramming or conversion.

(c) Considerations in selecting capability and performance validation techniques are set forth in § 201-30.013-3. In addition, both the FIRMR bulletin series and Section D ("Performance and Capability Validation") of the GSA document, Guidance to Federal Agencies on the Preparation of Specifications, Selection, and Procurement of ADP Equipment Systems, provide guidance to agencies in selecting appropriate capability or performance validation techniques during procurement planning.

PART 201-30—MANAGEMENT OF ADP RESOURCES

1. The table of contents of Part 201-30 is amended by adding entries for §§ 201-30.013-3 and 201-30.013-4; and the authority citation for the part continues to read as follows:

Sec.

201-30.013-3 Capability and performance validation considerations for ADP equipment systems.

201-30.013-4 Capability and performance validation considerations for ADP services.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C., 486(c).

2. Sections 201-30.013-3 and 201-30.013-4 are added to read as follows:

§ 201-30.013-3 Capability and performance validation considerations for ADP equipment systems.

(a) *Capability validation.* (1) Capability validation (defined in Part 201-2) can sometimes be reasonably determined by examination of technical specifications and associated technical literature. In some cases specific technical questions regarding particular points can be posed. Verification of conformance with pertinent Federal standards may be applicable. Operational capability demonstrations of certain functions may be required. However, validating functional capabilities in some orderly, structured fashion can rarely serve as a representative workload test of the performance of an ADP equipment system (see paragraph (b) of this § 201-30.013-3).

(2) Agency ADP managers shall take appropriate action to analyze needs and ADP requirements as necessary to identify and specify capability validation requirements in specifications. The objective of the specified capability validation requirements shall be to technically verify that offered ADP equipment and software can provide mandatory requirements or evaluated optional features. Capability validation requirements including Operational Capability Demonstrations (OCDs) shall not be used to replace required performance validation techniques.

(b) *Performance validation.* (1) Performance validation (defined in Part 201-2) is subject to the quality and completeness of the workload analysis and projections, inherent limitations of the various techniques, accuracy of the results, and the cost and time associated with the proper use of the selected technique. These factors can be analyzed relative to the risks and costs of not acquiring appropriate ADP capacity to meet workload requirements and the need for objectiveness and fairness in the selection process. However, dollar value thresholds of purchase or system life costs can not be consistently related to selection of performance validation techniques, nor should they be the sole criterion for selecting a technique. Necessary restrictions in requirements, e.g., compatibility-limited or sole source requirements, can also effect the selection of the performance validation technique. Benchmarking is the most precise of all the alternatives for validating performance; however its accuracy is no better than the workload analysis it is based upon. In any case, if properly constructed, no other performance validation technique is more accurate than benchmarking.

(2) Agency ADP managers shall take appropriate action to analyze program needs and ADP requirements necessary to identify and specify performance validation requirements in specifications. The selection of performance evaluation techniques shall be commensurate with the risks associated with program impacts related to potentially inappropriate or insufficient ADP capacity. Present and forecasted ADP workloads, anticipated system life costs, validation costs to the Government and offerors, and objectiveness and fairness in the acquisition process shall be considered.

(c) *Technical assistance.* Technical assistance, support, and service for simulation, analysis, and performance evaluation of ADP systems is described at § 201-34.002-1.

§ 201-30.013-4 Capability and performance validation considerations for ADP services.

Agencies shall follow applicable provisions in § 201-32.303-3 when acquiring ADP services. In addition, the Teleprocessing Services Program (TSP) Handbook provides guidance to agencies on validating ADP services.

Dated: May 29, 1985.

Dwight Ink,

Acting Administrator of General Services.

[FR Doc. 85-15352 Filed 6-25-85; 8:45 am]

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Proposed Rules

Federal Register
Vol. 50, No. 123
Wednesday, June 26, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 428

[Docket No. 1955S]

Sunflower Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Supplemental Notice of Proposed Policy Rulemaking and Extension of Comment Period.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith issues this supplemental notice of proposed policy rulemaking and extension of comment period for the purpose of soliciting public comment on its proposed changes for: (1) Prescribing procedures for insuring sunflowers on an actual production history (APH) basis; and (2) defining the insured's responsibility for reporting production records necessary for determining the insurance guarantee.

In addition, minor changes to the language and format of the regulations are proposed for purposes of clarity. The rule is now proposed for the 1986 crop year.

The intended effect of this supplemental notice is to propose changes to the sunflower crop insurance, make minor changes in language and format of the regulations contained in 7 CFR Part 428, and to provide an additional comment period of 30 days. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this supplemental notice of policy rulemaking must be submitted not later than July 26, 1985, to be sure of consideration.

ADDRESS: Written comments on this supplemental notice should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1989.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291, because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this proposed rule applies are: Title—Crop Insurance; Number 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

On Friday, December 14, 1984, FCIC published a notice of proposed rulemaking in the **Federal Register** at 49 FR 48729, proposing to revise and reissue the Sunflower Crop Insurance Regulations (7 CFR Part 428) effective for the 1985 and succeeding crop years.

FCIC now proposes that such insurance be offered on an actual production history (APH) basis with the coverages reflecting the actual production history of the crop on the unit, effective for the 1986 and succeeding crop years. This proposal necessitates a change in the policy for insurance as previously proposed by adding Section 15.c. to provide for automatic cancellation for failure to furnish production records prior to cancellation date. This section is added to assure that policyholders are aware that it is their responsibility to report sunflower production for the most recent year. Because coverage guarantees will be based on the producer's actual production history (APH), this information is necessary for FCIC to determine the guarantee.

This notice requests comments on the proposed rule as amended hereby, and provides a 30 day comment period.

The regulations and policy published as a notice of proposed rulemaking at 49 FR 48729 on December 4, 1984, with the change outlined herein, are republished below.

All written comments made pursuant to this notice will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C., 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 428

Crop insurance; Sunflower.

Supplemental Notice of Proposed Policy Rulemaking and Extension of Comment Period

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes an additional change to the proposed Sunflower Crop Insurance Regulations published at 49 FR 48729 on December 14, 1984. The proposed regulations are republished below in their entirety to read as follows:

PART 428—SUNFLOWER CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1986 and Succeeding Crop Years

Sec.

428.1 Availability of sunflower crop insurance.
428.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
428.3 OMB control numbers.
428.4 Creditors.
428.5 Good faith reliance on misrepresentation.
428.6 The contract.
428.7 The application and policy.

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1986 and Succeeding Crop Years

§ 428.1 Availability of sunflower crop insurance.

Insurance shall be offered under the provisions of this subpart on sunflowers in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 428.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for sunflowers which will be included in the actuarial table on file in applicable service offices for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 428.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 428) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563-0003 and 0563-0007.

§ 428.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 428.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the sunflower insurance contract, whenever: (a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) is indebted to the Corporation for additional premiums; or (2) has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000 finds that: (1) an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing.

§ 428.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a farm prescribed by the Corporation. The contract shall cover the sunflower crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 428.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the sunflower crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectively will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1986 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a sunflower contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1986 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Sunflower Insurance Policy for the 1986 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Sunflower Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of Loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake;
(7) Volcanic eruption; or
(8) Failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(6).

b. We will not insure against any loss of production due to:

(1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;

(2) The failure to follow recognized good sunflower farming practices;

(3) The impoundment of water by any governmental, public, or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be sunflower seed ("sunflower") which are planted for harvest as sunflowers, which are grown on insured acreage, and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year will be sunflowers planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

The insured share will be your share as landlord, owner-operator, or tenant in the insured sunflowers at the time of planting.

d. We do not insure any acreage:

(1) If the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) Which is irrigated and an irrigated practice is not provided for by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(3) Which is destroyed, it is practical to replant to sunflowers, and such acreage is not replanted;

(4) Initially planted after the final planting date contained in the actuarial table unless you agree, in writing, on our form to coverage reduction;

(5) Of volunteer sunflowers;

(6) Planted to a type or variety of sunflowers not established as adapted to the area or excluded by the actuarial table;

(7) Planted with another crop; or

(8) Which does not meet the rotation requirements designated by the actuarial table.

e. If insurance is provided for an irrigated practice:

(1) You must report as irrigated only the acreage for which you have adequate facilities and water, at the time of planting, to carry out a good sunflower irrigation practice; and

(2) Any loss of production caused by failure to carry out a good sunflower irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, will be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities will not be considered as a failure of the water supply from an unavoidable cause.

f. Unless otherwise provided by the actuarial table, insurance will attach only on acreage initially planted in rows far enough apart to permit cultivation; but, if such insured acreage is destroyed and replanted, whether in the same manner or by broadcasting, drilling, or in rows too close to permit cultivation, it will be considered insured acreage.

g. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree, in writing, to insure such acreage.

h. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of acreage, share, and practice.

You must report on our form:

a. All the acreage of sunflowers in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any sunflowers planted in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine any unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1984 crop year under the terms of the experience table contained in the sunflower policy in effect for the 1985 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1990 crop year;

(2) The premium reduction will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1985 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from a replanting payment if the billing date has passed on the date you are paid the replanting payment, or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the sunflowers are planted and ends at the earliest of:

a. Total destruction of the sunflowers;

b. Combining, threshing, or removal from the field;

c. Final adjustment of a loss; or

d. November 30 of the calendar year in which sunflowers are normally harvested.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You must want our consent to replant sunflowers damaged due to any insured cause (To qualify for a replanting payment, the acreage replanted must be at least the lesser of 10 acres or 10 percent of the insured acreage on the unit.);

(b) During the period before harvest, the sunflowers on any unit are damaged and you decide not to further care for or harvest any part of them;

(c) You want our consent to put acreage to another use; or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the sunflowers and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is replanted or put to another use.

(2) You must give us notice at least 15 days before the beginning or harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice must be given. A representative sample of the unharvested sunflowers (at least 10 feet wide and the entire length of the field) must remain unharvested for a period of 15 days from the date of notice unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the sunflowers on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You may not destroy or replant any of the sunflowers on which a replanting payment will be claimed until we consent.

c. You must obtain written consent from us before you destroy any of the sunflowers which are not to be haryested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the sunflowers on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of sunflowers on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of sunflowers to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you and under section 3 of the policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported and not on the actual information determined. All production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production (pounds) to be counted for a unit will include all harvested and appraised production.

(1) Mature sunflower production which otherwise is not eligible for quality adjustment will be reduced .12 percent for each .1 percentage point of moisture in excess of 10 percent; or

(2) Mature sunflower production which, due to insurable causes, has a test weight below 25 pounds per bushel for oil type sunflowers or below 22 pounds per bushel for non-oil type sunflowers will be adjusted by:

(a) Dividing the value per pound by the price per pound of No. 2 sunflowers; and

(b) Multiplying the result by the number of pounds of insured sunflowers.

The applicable price for No. 2 sunflowers will be the local market price on the earlier of the day the loss is adjusted or the day the sunflowers are sold.

(3) Any harvested production from other crops growing in the sunflowers will be counted as sunflowers on a weight basis.

(4) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good sunflower farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) Any unharvested production.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of sunflowers become general in the county;

(b) Harvested; or

(c) Further damaged by an insured cause before the acreage is put to another use.

(6) The amount of production of any unharvested sunflowers may be determined on the basis of field appraisals conducted after the end of the insurance period.

(7) If you elect to exclude hail and fire as insured causes of loss and the sunflowers are damaged by hail or fire, appraisals will be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire."

(8) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. A replanting payment may be made on any insured sunflowers replanted after we have given consent and the acreage replanted is at least the lesser of 10 acres or 10 percent of the insured acreage for the unit as determined on the final planting date.

(1) No replanting payment will be made on acreage:

(a) On which our appraisal exceeds 90 percent of the guarantee;

(b) Initially planted prior to the date we determine reasonable; or

(c) On which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre will be your actual cost per acre for replanting, but will not exceed the product obtained by multiplying 175 pounds times the price election, times your share.

If the information reported by you results in a lower premium than the actual premium determined to be due, the replanting payment will be reduced proportionately.

g. You must not abandon any acreage to us.

h. You may not sue us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is received by you.

i. We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fee, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semi-annually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

j. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the sunflowers are planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

k. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for 2 years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all sunflowers produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either your or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will be canceled if you do not furnish satisfactory records of the previous year's production to us on or before

the cancellation date. If you show, prior to the cancellation date, to our satisfaction, that records are unavailable due to conditions beyond your control, such as fire, flood, or other natural disaster, the Field Actuarial Office may assign a yield for that year.

d. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both such other payment and setoff are approved.

e. The cancellation and termination dates are April 15.

f. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partneship will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

g. The contract will terminate if no premium is earned for 5 consecutive years.

16. Contract changes.

We may change any of the terms and provisions of the contract from year to year. If your price election at which indemnites are computed is no longer offered, the actuarial table wil provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of sunflower crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding sunflower insurance in the county.

b. "County" meeans the county shown on the application and any additional land located in a local producing area bordering on the county as shown by the actuarial table.

c. "Crop year" means the period within which the sunflowers are normally grown and will be designated by the calendar year in which the sunflowers are normally harvested.

d. "Harvest" means the completion of combining or threshing of sunflowers on the unit.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Loss ratio" means the ratio of indemnity(ies) to premium(s).

h. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

i. "Replanting" means performing the cultural practices necessary to replant insured acreage to sunflowers.

j. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

k. "Tenant" means a person who rents land from another person for a share of the sunflowers or a share of the proceeds therefrom.

l. "Unit" means all insurable acreage of sunflowers in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the sunflowers on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement with us. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notice required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, D.C., on March 11, 1985.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: June 19, 1985.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 85-15262 Filed 6-25-85; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-ANM-3]

Proposed Alteration of Control Zone, Troutdale, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule.

SUMMARY: This notice proposes to amend the description of the Troutdale, Oregon, (Portland-Troutdale Airport) control zone by deleting reference to the 154 degree radial of the Portland VORTAC. Due to recent change to the Portland, Oregon, control zone description (84-ANM-16), action is necessary to redescribe that portion of the Troutdale control zone which abuts the Portland control zone. This proposed action provides the revised description.

DATE: Comments must be received on or before August 26, 1985.

ADDRESSES: Send comments on the proposal to: Manager, Airspace & Procedures Branch, ANM-530, Federal Aviation Administration, Docket No. 85-ANM-3, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168.

The official docket may be examined in the Regional Counsel's Office at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace & Procedures Specialist, ANM-534, Federal Aviation Administration, Docket No. 85-ANM-3, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. The telephone number is (206) 431-2534.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire.

Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should be identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-ANM-3." The postcard will be date/time stamped and returned to the commenters. All communications received before the specified closing date will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Airspace and Procedures Branch, 17900 Pacific Highway South, Seattle, Washington, 98168, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NRPM's

Any person may obtain a copy of this Notice or Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & Procedures Branch, ANM-530, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to redefine the west boundary of the Troutdale control zone. A recent amendment to the Portland control zone which reduced the size of the control zone extension east of Portland International Airport cause loss of needed controlled airspace west of the Portland-Troutdale Airport at the point these control zones abut. This proposed action provides the revised description by deleting reference to the 154 degree radial of the Portland VORTAC as the western boundary of the Troutdale control zone. This proposed action also changes the name of the Lake LOM to the Laker LOM.

Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibilty Act.

List of Subjects in 14 CFR Part 71

Control zones, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); (14 CFR 11.65); 49 CFR 1.47.

2. By amending § 71.171 as follows:

Troutdale, Oregon, Control Zone—(Revised)

That airspace bounded on the north and west by a 5-mile radius area centered on the Portland-Troutdale Airport (lat. 45°33'30" N/long. 122°23'49" W), on the south and east by a line parallel to and 3 miles southwest and northeast of the 119 degree bearing from the LAKER LOM (lat. 45°32'38" N/long. 122°27'49" W) extending from the LOM to 8 miles southeast. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Issued in Seattle, Washington, on June 12, 1985.

Leroy A. Keith,

Acting, Director, Northwest Mountain Region.

[FR Doc. 85-15268 Filed 6-25-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-AGL-13]

Proposed Control Zone Designation Revocation; Various Michigan Locations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed Rule.

SUMMARY: This notice proposes to revoke the control zones designated for Escanaba, Michigan; Iron Mountain, Michigan; Ironwook, Michigan; Menominee, Michigan; and Manitowoc, Wisconsin.

The intended effect of this action is to return the designated airspace to a non-controlled status.

DATES: Comments must be received on or before July 26, 1985.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 85-AGL-13, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Divison, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telelphone (312) 694-7360.

SUPPLEMENTARY INFORMATION: To justify and retain a designated control zone requires, in part, that hourly and special weather observations be taken at the primary airport in the control zone during the times and dates that the control zone is designated. A recent 30-day survey at the five locations identified in the Summary disclosed that the weather observation requirement was not being met by the responsible party(ies). The percentage of hourly reports received out of the total number required was as follows: Escanaba—77%; Iron Mountain—79%; Ironwood—44%; Menominee—50% and Manitowoc—04%. Special weather observations would be in addition to these reports, but it is unknown what that total number would have been. As a

result of the survey, it was concluded that the weather reporting at the locations identified was unacceptable for retention of the designated airspace status, that the control zone designations should be revoked, and that aeronautical charts should be amended to reflect the revocations.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85–AGL–13." The postcard will be date/time stamped and returned to the commenter. All communications recevied before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulmaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 426–8058.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke the control zone designations for the following locations: Escanaba, Iron Mountain, Ironwood, and Menominee in Michigan; and Manitowoc in Wisconsin.

Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 2, 1985.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationaly current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Control zones, Aviation safety.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); [14 CFR 11.65 for NPRM's and 11.69 for final rule]; 49 CFR 1.47.

2. By amending § 71.171 as follows:

Escanaba, MI
Revoked.
Iron Mountain, MI
Revoked.
Ironwood, MI
Revoked.
Menominee, MI
Revoked.
Manitowoc, MI
Revoked.

Issued in Des Plaines, Illinois, on June 4, 1985.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 85–15269 Filed 6–25–85; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 841–0069]

National Association of Temporary Services, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require an Alexandria, Va. association of temporary help companies, among other things, to cease engaging in any practices or maintaining any code of ethics provision or other written provision that has the purpose or effect of restraining the recruitment or employment of employees registered with another temporary help firm; the solicitation of another temporary help firm's clients; and the provision of temporary help employees to companies involved in a strike or lock-out. The Association would be barred from affiliating or federating any organization of temporary help firms that has adopted by-laws or a code of ethics containing a prohibited provision; and required to maintain records relating to disaffiliations and refused affiliations or federations for three years. The order would further require that the Association send a copy of the complaint and order, together with an explanatory letter, to each of its current members and provide a copy of the order to all new members for a period of three years.

DATE: Comments must be received on or before August 26, 1985.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Ross D. Petty, Seattle Regional Office, Federal Trade Commission, 2806 Federal Bldg., 915 Second Ave., Seattle, WA (206) 442–4656.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval,

by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Temporary employment services. Trade practices.

Before Federal Trade Commission

[File No. 841 0069]

Agreement Containing Consent Order To Cease and Desist

In the Matter of National Association of Temporary Services, Inc., a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of National Association of Temporary Services, Inc., a non-profit corporation, and it now appearing that National Association of Temporary Services, Inc., hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between National Association of Temporary Services, Inc., by its duly authorized officers and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent National Association of Temporary Services, Inc., is a non-profit corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its office and principal place of business located at 119 South Saint Asaph Street, Alexandria, Virginia 22314.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of the complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public with respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

For purposes of this order, the following definitions shall apply:

A. The term "NATS" means the National Association of Temporary Services, Inc., its successors or assigns, and its officers, board members, directors, committees, agents, representatives and/or employees.

B. The term "temporary help employees" shall mean employees who are assigned to work for customers on a non-permanent basis.

C. The term "temporary help firms" shall mean businesses employing temporary help employees.

D. The term "registration" shall mean the written, oral or other agreement of temporary help employees to be available to a temporary help firm for assignment to jobs.

II

It is ordered that NATS, directly or indirectly, or through any corporate or other device, in or affecting commerce, shall cease and desist from:

A. Maintaining any code of ethics provision, or other written provision, such as Paragraph 7 of the Code of Ethics, Paragraphs 5 and 7 of the Code of Fair Practices for Temporary Office/Clerical Services, and Paragraph 9 of the Code of Employment Practices for Medical Services which are contained in the NATS membership directory for 1983–1984, or engaging in any acts or practices, such as providing advice on the propriety of conduct, that have the purpose or effect of restricting, restraining, limiting, or preventing:

1. the solicitation, through advertising or otherwise, the recruitment, or the employment by any temporary help firm of the temporary help employees registered with any other temporary help firm;

2. the solicitation, through advertising or otherwise, of customers of a temporary help firm by any other temporary help firm;

3. the providing of temporary help employees to potential or existing customers who are involved in a strike or a lock-out.

B. Affiliating or federating as set forth in the NATS by-laws, or continuing an affiliation or federation, with any organization of temporary help firms that:

1. has adopted any by-law, code of ethics, or other provision that violates Section II.A of this order; or

2. has engaged in any act or practice that, to NATS' knowledge, violates

Section II.A of this order after this order becomes final.

III

It is further ordered that NATS shall:

A. Send to each of its members within thirty (30) days after the date of service of this order a copy of the complaint and decision and order in this matter, along with the letter attached to this order.

B. Provide written notice of the name and address of any organization of temporary help firms within twenty (20) days of the disaffiliation or refusal of affiliation or federation pursuant to section II.B of this order. The notice shall be sent to the Assistant Director for Compliance, Bureau of Competition, Federal Trade Commission and shall reference this matter by name of case and docket number. NATS shall keep for three (3) years all papers and records pertaining to disaffiliations and refused affiliations or federations pursuant to this paragraph.

C. Provide for a period of three (3) years from the date of service of this order to each new NATS member and affiliate a copy of the complaint and decision and order in this matter. These documents shall be provided not later than thirty (30) days after the new member is accepted into membership or the organization is accepted as an affiliate.

IV

It is further ordered that NATS shall, within ninety (90) days after service of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

V

It is further ordered that NATS shall notify the Commission at least thirty (30) days prior to any proposed change in NATS including, but not limited to, disbanding, dissolution, assignment, the formation of a successor or substitute entity, or any other change in NATS which may affect compliance obligations arising out of this order.

Attachment

[NATS letterhead]

Dear Member: This letter is to notify you that, without admitting liability for any wrongdoing, we have voluntarily entered into an agreement with the Federal Trade Commission which resulted in the entry of a consent order on [enter date of order]. The order requires that the National Association of Temporary Services, Inc. not engage in certain practices. Copies of the complaint and order are included.

In accordance with the terms of the order, you are hereby notified that, among other requirements of the order, NATS shall not restrict, restrain or in any way interfere through application of the NATS Codes of Ethics or otherwise with (1) the solicitation, through advertising or otherwise, the recruitment, or the employment by any temporary help firm of the temporary help employees of any other temporary help firm; (2) the solicitation, through advertising or otherwise, of customers of a temporary help firm by any other temporary help firm; or (3) the providing of temporary help employees to customers who are engaged in a strike or a lock-out.

Moreover, if any NATS affiliate association uses a code of ethics to restrict or limit the solicitation or recruitment of temporary help, such action will result in NATS disaffiliating with that association.

As you may know, we previously repealed the specific language in the Code of Good Practices for Office Services which had condemned direct solicitation of individuals employed by competing firms. The terms of the consent agreement with the FTC are consistent with this change in the Code of Good Practices.

This letter summarizes the important parts of the order, but you should read it carefully in its entirety.

Sincerely,

Samuel R. Sacco,

Executive Vice-President.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from the National Association of Temporary Services, Inc. ("NATS").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Complaint

NATS is a national association of companies that provide temporary help services to employers. The complaint charges that NATS used its code of ethics, and engaged in other practices, to restrain competition in the recruitment of temporary help, in the solicitation of customers, and in the providing of temporary help to businesses whose employees are on strike.

The Order

The first substantive section of the proposed order (II.A) prevents NATS from using its code of ethics and its code of good practices or engaging in any other practices which have the following purpose or effects: restraining temporary help firms from soliciting the employees or clients of other firms or restricting the provision of temporary help to clients whose employees are on strike.

Section II.B of the order requires NATS to refrain from affiliating with any state or regional association of temporary help firms which has code of ethics provisions similar to those prohibited by Section II.A of the order. This section also requires NATS to refrain from affiliating (or to cease an affiliation) if it has knowledge that an affiliate association is taking any actions which would violate Section II.A of the order.

The remainder of the proposed order is procedural. Section III of the order requires NATS to provide a copy of the complaint and order to each current member and, for three years, to each new member. It also requires NATS to give the name and address of any disaffiliated organization to the Bureau of Competition. Section IV requires the filing of a compliance report. Section V mandates notification to the Commission of any relevant changes in the structure of NATS.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 85-15316 Filed 6-25-85; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[File No. 841 0083]

National Customs Brokers & Forwarders Association of America, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a national association whose members provide services to clients in connection with the importation of merchandise into the United States, among other things, to cease adopting, maintaining, or enforcing any by-law, code of ethics, provision, rule or regulation that restricts or attemps to restrict the ability of a member to offer price discounts or reach independent pricing decisions relating to custom brokerage services.

The Association would also be barred from commencing or continuing any affiliation or formal relationship with an organization that engages in the prohibited conduct. Further, the order would require that the Association timely send a copy of the complaint and order, to each of its current members, together with the attached explanatory letter; publish the order in its "Bulletin" or newsletter; and provide a copy of the order to all new members and affiliates for a period of three years.

DATE: Comments must be received on or before August 26, 1985.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Ross D. Petty, Seattle Regional Office, Federal Trade Commission, 2806 Federal Bldg., 915 Second Ave., Seattle, WA (206) 442–4656.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Custom brokers services, Trade practices.

Before Federal Trade Commission

[File No. 841 0083]

Agreement Containing Consent Order To Cease and Desist

In the Matter of National Customs Brokers & Forwarders Association of America, Inc., a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the National Customs Brokers & Forwarders Association of America, Inc., a corporation, and it now appearing that the National Customs Brokers & Forwarders Association of America, Inc., hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between the National Customs Brokers & Forwarders Association of America, Inc., by its duly authorized officers and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent the National Customs Brokers & Forwarders Association of America, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at One World Trade Center, Suite 1109, New York, New York 10048.

2. Proposed respondent admits all of the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public with respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

For purposes of this order, the following definitions shall apply:

A. The term "Association" means the National Customs Brokers & Forwarders Association of America, Inc., its successors or assigns, and its officers, board members, directors, committees, members, agents, representatives or employees.

B. The term "customs broker" shall mean any entity licensed as a customs broker by the United States Customs Service.

II

It is ordered that the Association, directly or indirectly, or through any corporate or other device, shall cease and desist from:

A. Adopting, participating in, maintaining or enforcing any by-law, code of ethics provision, rule, regulation, agreement, understanding, plan or program, either directly or indirectly, that restricts or attempts to restrict any member's ability to offer price discounts, or otherwise restricts or attempts to restrict the ability of any

member to reach independent decisions concerning prices for the sale of customs brokerage services.

B. Affiliating or establishing a formal relationship, as set forth in the by-laws of the Association, or continuing an affiliation or formal relationship with any organization that has customs borkers in its membership that violates Section II.A of this order.

III

It is further ordered that the Association shall:

A. Within thirty (30) days after the date of service of this order send to each of its members a copy of the compliant and decision and order in this matter, with the letter attached to this order.

B. Publish this order within 30 days after the date of service on respondent in 10-point boldface (or larger) type under the heading "Federal Trade Commission Order" in the Association's "Bulletin" or similar newsletter read by the Association's general membership.

C. Provide written notice of the name and address of any association of customs brokers that is disaffiliated or is refused affiliation pursuant to Section II.B of this order. The notice shall reference this matter by name of case and docket number and shall be sent to the Assistant Director for Compliance, Bureau of Competition, Federal Trade Commission and the Regional Director, Seattle Regional Office, Federal Trade Commission.

D. For three (3) years from the date of service of this order, provide to each new Association member or affiliate a copy of the complaint and decision and order in this matter. The complaint and decision and order shall be provided not later than thirty (30) days after the new member is accepted into membership or the organization is accepted as an affiliate.

IV

It is further ordered that the Association shall, within sixty (60) days after service of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

V

It is further ordered that the Association shall notify the Commission at least thirty (30) days prior to any proposed change in the Association, including, but not limited to, disbanding, dissolution, assignment, the formation of a successor or substitute entity, or any other change in the Association that may affect compliance obligations arising out of this order.

Attachment

[Association Letterhead]

Dear Member: This letter is to notify you that, without admitting liability for any wrongdoing, we have voluntarily entered into an agreement with the Federal Trade Commission that resulted in the entry of a consent order on [enter date of order]. The order requires that this association not engage in certain practices. Copies of the complaint and order are included.

In accordance with the terms of the order, you are hereby notified that, among other requirements of the order, the National Customs Brokers & Forwarders Association of America, Inc. may not adopt or maintain any provision in its by-laws, codes of ethics or elsewhere, or enter into any agreement or understanding, that discourages the discounting of prices or that has the purpose or effect of stabilizing or fixing prices or other terms or conditions for the sale of customs brokerage services.

Moreover, violations of the order by affiliate associations of the National Customs Brokers & Forwarders Assocation of America, Inc. will result in the Association's disaffiliation of those local associations.

As you may be aware, the code of ethics provisions in the by-laws of this association recently have been altered. The change deletes the requirement in the code of ethics that fees charged by members shall assure a fair return for the services rendered. All of the criteria to be considered in setting fees were also deleted from the code. You are not required to consider these code provisions in setting fees. Any fees you have set that are based in whole or in part upon the deleted code of ethics provisions should be re-determined by you independently of the former code of ethics provisions.

This letter summarizes the important parts of the order, but you should read it carefully in its entirety.

Sincerely,

John Hammon,

Executive Vice President.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from the National Customs Brokers & Forwarders Association of America, Inc. ("Association").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Complaint

The Association is a national association of firms that provide services to clients in connection with the importation of merchandise into the United States. The complaint charges that the association adopted a by-law requiring its members to charge fees that would assure a fair rate of return for services rendered, thereby restraining price competition among members.

The Order

The first substantive section of the proposed order (II.A) prevents the Association from using its code of ethics in any manner that restricts or attempts to restrict any member's ability to offer price discounts or reach independent decisions concerning prices for the sale of customs brokerage services.

Section II.B of the order requires the Association to refrain from affiliating or establishing a formal relationship or continuing an affiliation or formal relationship with any organization with customs brokers in its membership that violate Section II.A of the order.

The remainder of the proposed order is procedural. Section III of the order requires the Association to provide a copy of the complaint and order to each current member and, for three years, to each new member. The order is to be published in the Association's newsletter. The order also requires the Association to give the name and address of any disaffiliated organization to the Commission's Bureau of Competition and to the Seattle Regional Office. Section IV requires the filing of a compliance report. Section V mandates notification to the Commission of any relevant changes in the Association's structure.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 85-15315 Filed 6-25-85; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of Certain Color Additives; Proposal to Extend Closing Dates

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to postpone the closing dates for the use of nine provisionally listed color additives, FD&C Red No. 3 and its lakes, FD&C Yellow No. 6, D&C Red No. 8, D&C Red No. 9, D&C Red No. 19, D&C Red No. 33, D&C Red No. 36, D&C Red No. 37, and D&C Orange No. 17, beyond September 3, 1985. The purpose of this postponement is to permit the uninterrupted use of these color additives while (1) FDA receives and evaluates the report of a scientific review panel on six color additives (FD&C Red No. 3, D&C Red No. 8, D&C Red No. 9, D&C Red No. 19, D&C Red No. 37, D&C Orange No. 17) and then takes final action on those additives; (2) the agency evaluates newly submitted information on the results of the chronic study on one color additive (FD&C Yellow No. 6); and (3) the proponents of two color additives (D&C Red No. 33 and D&C Red No. 36) decide whether to undertake and, should they decide to do so, conduct new studies. The postponement will also provide the agency with an opportunity to evaluate the results of the new studies on these latter two color additives and to make a final decision on their permanent listing. For these two color additives, the postponement will be conditional on the undertaking of such studies as are necessary and the submission of the data from those studies to FDA on a prescribed schedule.

DATES: Comments by July 26, 1985. FDA proposes that any final rule based on this proposal be effective September 3, 1985.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Center for Food Safety and Applied Nutrition (HFF-330), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5676.

SUPPLEMENTARY INFORMATION:

I. Background

The Color Additive Amendments of 1960 (the amendments) established a system of premarket approval for all color additives used in foods, drugs, cosmetics, and some devices. Recognizing that many color additives were already in use at the time the amendments were enacted, Congress also established transitional provisions to allow for the provisional listing and continued use of those color additives while the studies necessary to determine whether they should be permanently listed under the standards established in the amendments were conducted and evaluated.

Section 81.1 (21 CFR 81.1) of the color additive regulations designates those color additives that are provisionally listed under section 203(b) of the transitional provisions of the admendments (Title II, Pub. L. 86-618, 74 Stat. 404-407 (21 U.S.C. 376, note)), along with their respective "closing dates." A "closing date" is the last day upon which a provisionally listed color additive can be legally used, absent approval of a color additive petition and the permanent listing of the color additive.

A color additive may be permanently listed only if data establish that it is safe under its intended conditions of use. The transitional provisions permit the provisional listing of color additives for a period of time necessary to complete scientific investigations needed to establish their safety. The closing date for such color additives can be extended if, in the Commissioner's judgment, such action is consistent with the objective of carrying to completion in good faith and as soon as reasonably practicable the scientific investigations necessary for making a safety determination with respect to the provisionally listed colors and is consistent with the public health. See *McIlwain* v. *Hayes*, 690 F.2d 1041, 1047 (D.C. Cir. 1982).

In the **Federal Register** of February 4, 1977 (42 FR 6992), FDA published regulations that required new chronic toxicity studies on 31 color additives, including the nine that are the subject of this proposal, as a condition for continued provisional listing of these color additives for ingested uses. FDA required these new chronic studies because the older toxicity studies that had been submitted in support of listing the color additives were deficient in light of contemporary, more rigorous scientific standards that had evolved for such studies. FDA extended the provisional listing of these color additives until January 31, 1981, for completion of these studies and evaluation of the results (42 FR 6992).

However, in April 1980, FDA received citizen petitions from the Cosmetic, Toiletry and Fragrance Association, Inc. (CTFA); the Pharmaceutical Manufacturers Association, Inc. (PMA); and the Certified Color Manufacturers Association, Inc. (CCMA), that sought extensions of the provisional listings of 23 color additives. Citing numerous unavoidable and unforseeable delays that had occurred during the course of the chronic studies, the petitioners requested time to complete the ongoing chronic feeding studies on each additive.

In the **Federal Register** of March 27, 1981 (46 FR 18954), FDA adopted a final rule that granted the requested extensions for the 23 color additives. This final rule established a staggered series of dates on which the final reports on the chronic testing of the additives were to be submitted to the agency. In addition, the agency established a closing date for the provisional listing of of each color additive that was 1 year after the date the final report was due. This 1-year period was intended to provide the agency with time to complete its evaluation of the data in each petition.

The chronic testing that the agency required in 1977 is now complete. FDA has issued final rules on 13 of the 23 color additives that were the subject of the March 27, 1981, order. (One of these color additives, FD&C Blue No. 2, is the subject of a hearing on a challenge to FDA's final rule for its permanent listing.) In addition, FDA expects to issue shortly a final rule on a fourteenth additive, FD&C Yellow No. 5.

However, the data that have been developed for nine of the color additives that remain on the provisional list, FD&C Red No. 3 and its lakes, FD&C Yellow No 6, D&C Red No. 8, D&C Red No. 9, D&C Red No 19, D&C Red No. 33, D&C Red No. 36, D&C Red No. 37, and D&C Orange No. 17, present extremely difficult and vexing scientific and policy questions. The closing date for the provisional listing of these color additives is September 3, 1985 (50 FR 23294; June 3, 1985).

The issues presented by the uses of these color additives are complex, and their complexity has grown as new questions have been raised that press the frontiers of toxicological science and risk assessment technique. Although the agency has been committeed to a prompt and fair evaluation of the data, and thus has issued a series of short, 2-month extensions of the provisional list, it has become clear that appropriate resolution of the issues that remain requires more time.

As explained below, the agency has referred the questions on six of the color additives to an expert panel of Public Health Service (PHS) scientists. The agency has also only recently received additional information on the results of chronic study on one color additive. Finally, FDA has decided to call for new testing of two color additives because such additional testing appears to be necessary before the agency can make an appropriate determination about the safety of their use. Each of these actions

will take time to complete, and the agency will need time to analyze the results of these actions and to make a decision on the permanent listing of these color additives. Therefore, the agency is proposing new extensions of the provisional list. FDA has given individual consideration to each of these color additives and has found no public health reason that requires immediate cessation of the use of any of them.

A discussion of the issues that remain to be resolved for each color additive on the provisional list, and of the basis for the proposed extension for each color additive, follows.

II. Color Additives That Are Subject to Review by the Scientific Review Panel

Treatment-related increases in the incidence of tumors were found in chronic testing of six of the provisionally listed color additives. Because this testing was designed to discover the effects of ingestion of the additives, the observed effects were apparently caused by the color additives. The significance of these results has been called into question, however, and strong arguments have been made, both within and outside the government, that there are in fact sound scientific and policy bases for permanently listing each of these color additives.

A. D&C Red No. 8, D&C Red No. 9, D&C Red No. 19, D&C Red No. 37, and D&C Orange No. 17

For five of the color additives, D&C Red No. 8, D&C Red No. 9, D&C Red No. 19, D&C Red No. 37, and D&C Orange No. 17, CTFA has conducted risk assessments based on the exposure to and the potency of the color additives. These computations produced extremely small upper bound levels of risk from the petitioned uses of these additives. If the agency were to treat extremely small carcinogenic risks as being "*de minimis*," that is, as being of no regulatory significance, it could list a carcinogenic color additive if it found that the risk from its use was *de minimis*, and that, in all other respects, there was a reasonable certainty of no harm from the use of the additive.

However, countervailing questions have been raised that create doubts about whether a valid risk assessment can be performed on the basis of the chronic testing that has been done on these color additives. These questions center on identifying the specific agent or agents that produced the carcinogenic response associated with the use of these color additives and determining the exposure to these agents that results from the use of the color additives. For the external uses of the color additives, these questions are complicated by concerns about the extent to which the components of the color additivies are absorbed through the skin, and about whether one can determine what part of the color additive is in fact absorbed. Although the question of whether a valid risk assessment can be performed for these color additives has been considered within the agency, FDA has not been able to resolve this issue satisfactorily.

In an effort to reach a definitive resolution of this and other issues raised by the provisionally listed color additives, the Commissioner has charged a color additives scientific review panel (the panel) to evaluate the available data and other information on the five additives and to report on its conclusions. The members of the panel are all employed by PHS and are all experts on various aspects of the issues raised by these color additives. The members of the panel are:

Ronald W. Hart (Chair), Director, National Center for Toxicological Research, Food and Drug Administration.

Stan Freni, Center for Environmental Health, Centers for Disease Control.

David W. Gaylor, Director, Division of Biometry, National Center for Toxicological Research, Food and Drug Administration.

James R. Gillette, Chief, Laboratory of Chemical Pharmacology, National Heart, Lung, and Blood Institute.

Larry Lowery, Technical Support Branch, National Institute for Occupational Safety and Health.

Jerrold M. Ward, Chief, Tumor Pathology and Pathogenesis Section, National Cancer Institute.

Elizabeth Weisburger, Assistant Division Director for Chemical Carcinogenesis, National Cancer Institute.

The panel members have been charged with addressing two issues with respect to the five color additives: First, they have been asked to consider whether valid quantitative risk assessments can be performed for these color additives. Second, the panel members are to consider whether the available information supports the data analyses and the risk assessments that hve been performed and that are before the agency. The panel will prepare a final report that addresses these issues and that contains a narrative sufficient to support the outcome of the panel's deliberations.

Once the panel completes its report, the report will be reviewed by the Commissioner, who will then decide how the agency will proceed with regard to the report on these five color additives. Documents setting forth the agency's conclusions about the safety of these additives (announcing further action, permanent listing, or removal of the additive from the provisional list) will then be prepared and cleared for publication in the **Federal Register**.

FDA believes that this process, from consideration by the panel to publication of final rules in the **Federal Register**, will require an additional 9 months beyond the current September 3, 1985, closing date. Therefore, to provide for the uninterrupted use of the five color additives during this process, FDA is proposing to amend 21 CFR 81.1(b) and 81.27(d) by extending the closing dates for D&C Red No. 8, D&C Red No. 9, D&C Red No. 19, D&C Red No. 37, and D&C Orange No. 17 until June 6, 1988. This extension is based on the Commissioner's conclusion that continued provisional use of these color additives for this period of time, under their intended conditions of use, is consistent with the public health.

B. FD&C Red No. 3

In the chronic studies on FD&C Red No. 3, there was an increased incidence of thyroid follicular carcinomas, adenomas, and hyperplasia in male rats that were fed the color additive at the highest (4.0 percent) level. CCMA, the National Food Processors Association (NFPA), and the California League of Food Processors (CLFP) (The industry groups) have argued that these tumors were the result of a secondary mechanism and thus were not caused by FD&C Red No. 3. They have asserted that the evidence suggests that FD&C Red No. 3 itself, or iodine released by the color additive, causes thyroid hormonal imbalances that lead to an increased incidence of tumors. The industry groups argue that when the color additive is ingested at lower levels, the hormone levels are not affected, and tumors are not induced. They argue that, therefore, a safe level of use of the color additive can be established. In support of this argument, the industry groups have submitted to FDA the results of new short-term studies of the effects of FD&C Red No. 3.

However, questions persist as to whether the available data on FD&C Red No. 3 establish a secondary mechanism, and as to whether those data establish a safe level of use of this color additive. It may be that these issues, which bear on the safe use of FD&C Red No. 3, can be definitively resolved only by a new chronic study.

The Commissioner has asked the panel to review the data on these questions. Recognizing that the panel has been asked not only to deal with these questions but also with the questions raised by the five color additives discussed above, FDA is proposing to extend the closing date for FD&C Red No. 3 until September 3, 1986. Assuming that a decision on this color additive is possible on the basis of currently available evidence, the agency considers that such an extension will provide adequate time for the panel to complete its deliberations, for the agency to review the panel's conclusions, and for the agency to prepare and publish an appropriate **Federal Register** document.

The agency recognizes, however, that it may be the case that only a new chronic study will resolve the secondary mechanism issue. Should this prove to be true, because the agency believes that the arguments advanced by the industry groups on this issue are plausible, FDA is prepared to extend the provisional listing of FD&C Red No. 3 to permit the necessary testing to resolve the secondary carcinogenesis issue. There must, of course, be agreement by an interested party to conduct such testing.

Therefore, FDA is proposing to extend the closing date of FD&C Red No. 3 for 1 year beyond the current September 3, 1985, closing date. This extension is based on the Commissioner's conclusion that continued use of FD&C Red No. 3 for its provisionally listed uses for this period of time is consistent with the public health. However, should the agency conclude before publication of a final rule based on this proposal that a new chronic study is necessary, FDA would consider adopting in the final rule a 6-year extension of the closing date of FD&C Red No. 3 to permit such testing. FDA invites comment on both possibilities.

FDA recognizes that designing a study to test whether a secondary mechanism is working may be a difficult task. Therefore, any regulation that FDA adopts extending the provisional listing of FD&C Red No. 3 for such testing would provide 90 days for interested persons to decide whether they will conduct such a study. An interested person would have to provide written agreement within the 90-day period that it will conduct the required study.

The regulation would also require that the protocol for the conduct of the study be submitted to FDA for review and acceptance or rejection within 6 months of the effective date of the extension. Staff from the Center for Food Safety and Applied Nutrition will be available to consult with the sponsor of the new test concerning the design of the protocol and will promptly review the protocol and advise the sponsor in writing whether it is acceptable, or, if not, what modifications are necessary. The protocol will be placed on file under the docket number for this document at the Dockets Management Branch (address above).

Finally, the regulation would require that the sponsor submit semiannual progress reports to FDA on the study. A report on the results of the study would be required to be submitted to FDA 60 months after the regulation becomes effective. FDA would then have 1 year to take final action on FD&C Red No. 3.

FDA recognizes that it is possible that no one will agree to undertake the chronic study. Should this be the case, FDA will review the available evidence on FD&C Red No. 3 and determine what action is appropriate with regard not only to its provisional listing but also to the regulations that permanently list the use of this color additive in food and ingested drugs (21 CFR 74.303 and 74.1303). Should the agency decide to deny the petition and to repeal §§ 74.303 and 74.1303, it would provide an opportunity for an administrative hearing to challenge these actions. Should an interested person request such a hearing, the agency is prepared to extend the closing date of the provisionally listed uses of this color additive until the conclusion of that proceeding. FDA is prepared to do so because continued provisional listing for the time necessary for such a hearing would pose a hazard to the public health. Public exposure to this color additive results largely from its permanently listed uses. Consequently, it would be an unnecessary and inappropriate exercise in formalism to terminate its provisional uses, which create only a small portion of the exposure, while, by the statute's operation, the permanently listed uses would continue to be allowed.

III. The Color Additive About Which Additional Information Has Been Developed—FD&C Yellow No. 6

For FD&C Yellow No. 6, as for all the color additives that remain on the provisional list, chronic studies involving both mice and rats were conducted. In the chronic mouse study, FD&C Yellow No. 6 was fed to Charles River CD-1 mice at dietary levels of 0, 0.5, 1.5, and 5.0 percent. Sixty females and 60 males were used for each dietary level and in each of two control groups. The male mice were sacrificed at approximately 20 months and the female mice at approximately 23 months. Based on the evaluation of the results of the chronic mouse toxicity study, the agency has determined that FD&C Yellow No. 6 is not carcinogenic to Charles River CD-1 mice.

In the chronic rat study, Charles River CD rats exposed in utero were fed dietary levels of 0, 0.75, 1.5, and 3.0 percent FD&C Yellow No. 6. Seventy females and 70 males were used for each dietary level and in each of two control groups. The males were sacrificed at 128 weeks of feeding and the females at 122 weeks. A related second study was performed with the same strain of rats, in which the animals, exposed in utero, were fed either 0 or 5.0 percent of FD&C Yellow No. 6. There were 70 animals of each sex in each group in the latter study.

FDA is currently reviewing the rat studies. Although rare tumors have been found in the kidneys of the female rats, agency scientists have doubts as to whether this effect was actually caused by the color additive. To clarify this issue, on March 14, 1985, FDA met with the petitioner, CCMA, to request that the laboratory that conducted the rat studies prepare and submit additional kidney tissue slides. FDA has only recently received these slides. The agency needs additional time to review and to evaluate all of the data that it has received on FD&C Yellow No. 6.

Moreover, FD&C Yellow No. 6 shares some carcinogenic constituents with FD&C Yellow No. 5. Consequently, FDA will need time to determine, assuming that it finds FD&C Yellow No. 6 to be otherwise safe, whether it can permanently list this color additive under FDA's constituents policy (see 47 FR 14464; April 2, 1982), and, if it can, what specifications it should set for the constituents.

Therefore, FDA is proposing to extend the provisional listing for FD&C Yellow No. 6 from the current expiration date of September 3, 1985, to June 6, 1986, to permit the continued use of this color additive while the agency completes its review of the safety of this color additive. This extension is based on the Commissioner's conclusion that continued provisional use of this color additive for this period of time, under its current conditions of use, is consistent with the public health.

The agency recognizes that even if its review of the new information that it has received leads it to conclude that FD&C Yellow No. 6 is a carcinogen, the proponents of the use of this color additive may argue that grounds exist for permanently listing this additive. If such grounds are presented to the agency, FDA will consider granting a

further extension of the provisional list while it considers their validity.

IV. Color Additives That Must Be Studied Further—D&C Red No. 33 and D&C Red No. 36

The chronic testing of both D&C Red No. 33 and D&C Red No. 36 did not reveal a carcinogenic effect in the animals in which they were tested. Nonetheless, for both color additives, among rats of both sexes there were a few uncommon tumors and numerous lesions of the spleen that are rare but not neoplastic. For example, Sprague-Dawley rats fed 2.0 percent D&C Red No. 33 showed enlargement of the spleen at 12 months and at termination of the study. In both sexes, the rats treated with this level of the color additive showed lesions of the spleen in the form of parenchymal fibrosis, capsular fibrosis, and fatty metamorphosis. In addition, in the spleens of these rats, the agency found uncommon tumors: three fibrosarcomas and one capsule hemangioma in males and one fibroma in females. The control rats had none of these tumors, but on hemangiosarcoma was found in the spleen of a male control.

If FDA had only the results of the testing of D&C Red No. 33 and D&C Red No. 36 before it, the agency would likely have approved the use of these color additives in spite of the observed effects. However, the proliferative effects seen in the testing of D&C Red No. 33 and D&C Red No. 36 indicated to the agency that there was a similarity between these color additives and certain other compounds, such as D&C Red No. 9 (which is before the scientific review panel), that have been shown to be carcinogenic. When D&C Red No. 9 was fed to Sprague-Dawley rats, a few rare tumors and numerous rare lesions of the spleen, of the same kind as were observed with D&C Red No. 33 and D&C Red No. 36, were produced. When D&C Red No. 9 was fed to Fischer 344 rats, numerous rare tumors of the spleen were produced, and D&C Red No. 9 was found to be a splenic carcinogen.

The association of the nonneoplastic splenic lesions with tumor occurrence suggests that the nonneoplastic lesions may be precursors or indicators of the start of a carcinogenic process. This similarity of effects in one strain of rats between D&C Red No. 33 and D&C Red No. 36, on the one hand, and D&C Red No. 9, on the other, implicates D&C Red No. 33 and D&C Red No. 36 as possible carcinogens. To clarify the significance of this similarity of effects, FDA is proposing that new studies be conducted on D&C Red No. 33 and D&C Red No. 36. The agency believes that such studies are the best way to resolve the ambiguities about these color additives that have been created by the results of the testing of D&C Red No. 9 and of other compounds in Fischer 344 rats. The agency does not believe that these results indicate that continued provisional listing of these color additives for the period of time needed to complete and evaluate the studies will present a hazard to the public health.

A panel of experts from the National Toxicology Program (NTP) examined the data on D&C Red No. 33 in conjunction with the data on D&C Red No. 9 and agreed with agency scientists that there is a clear relationship between the two color additives that provides a basis for concern about the possible carcinogenicity of D&C Red No. 33. The NTP panel suggested that there may be some short-term testing that could help resolve that issue, but it is not clear to FDA whether the NTP panel had any type of short-term testing specifically in mind. The agency has contacted NTP to resolve that question.

In the absence of information on a short-term solution to this problem, FDA has decided to propose to extend the provisional listing of both D&C Red No. 33 and D&C Red No. 36 for 5 years to permit chronic testing of both color additives in Fischer 344 rats, the strain that demonstrated the carcinogenicity of D&C Red No. 9. Should the agency learn of appropriate short-term tests during the comment period, it will modify the final rule accordingly. The proposed extension of the provisional listing of these color additives is based in part on the Commissioner's conclusion that continued provisional use of these additives for this period of time, under their intended conditions of use, is consistent with the public health.

The timing of the extension for these color additives is based on the assumption that it will not be necessary to develop a new protocol for testing these additives. The protocol that was adopted in 1977 should be used, with Fischer 344 rats substituted for Sprague-Dawley rats.

Proposed 21 CFR 81.27(d)(1) conditions postponement of the provisional list on the written agreement by an interested party, within 30 days of the date that a postponement becomes effective, to conduct the required studies. Proposed 21 CFR 81.27(d)(2) also requires that the protocols for the studies be submitted to FDA for review and acceptance or rejection within 60 days of its effective date. Proposed 21 CFR 81.27(d)(3) requires that the sponsor submit to FDA semiannual progress reports on the studies.

The agency encourages interested parties to provide any information they have on short-term studies that would be capable of producing an answer to the questions that exist about D&C Red No. 33 and D&C Red No. 36. If the agency concludes that there are appropriate short-term studies that can be done, it will revise the final rule accordingly.

FDA recognizes that it is possible that no one will agree to undertake the chronic studies of D&C Red No. 33 and D&C Red No. 36 that it is proposing to require. Should this be the case, FDA will evaluate the petitions on the basis of the available evidence. If it deems it appropriate to deny the petitions on these color additives, it will provide an opportunity for administrative hearings to challenge its actions. Should interested persons request such hearings, the agency is prepared to extend the closing date of the previously listed uses of these color additives until the conclusion of those proceedings. FDA is prepared to do so because the existing data on these color additives indicate that their continued provisional listing for the time needed to resolve the issues does not present a hazard to the public health.

Moreover, D&C Red No. 33 shares some carcinogenic constituents with FD&C Yellow No. 5 and FD&C Yellow No. 6. Consequently, FDA will need time to determine, assuming that it finds D&C Red No. 33 to be otherwise safe, whether it can permanently list this color additive under FDA's constituents policy (see 47 FR 14464; April 2, 1982), and, if it can, what specifications it should set for the constituents.

V. Environmental and Economic Impact

The agency has determined under 21 CFR 25.24(a)(8) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA has determined that extending the provisional listing of these color additives requires no change in the current industry practice concerning the manufacture or use of these ingredients. Therefore, FDA certifies, in accordance with section 605(b) of the Regulatory Flexibility Act, that no significant economic impact on a substantial number of small entities will derive from this action. Further, the economic effects of this proposed rule have been

analyzed and it has been determined that it is not a major rule as defined by Executive Order 12291.

In accordance with 21 CFR 10.40(b)(2), FDA is providing 30 days for comment on this proposal. The current closing date for the provisional listing of these nine color additives is September 3, 1985. For the agency to complete this rulemaking by that time, it is necessary for it to shorten the comment period on this proposal. Therefore, there is good cause for providing 30, rather than 60, days for comment.

Interested persons may, on or before July 26, 1985, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that Part 81 be amended as follows:

1. The authority citation for 21 CFR Part 81 continues to read as follows:

Authority: Secs. 701, 706 (b), (c), and (d), 52 Stat. 1055–1056 as amended, 74 Stat. 399–403 (21 U.S.C. 371, 376 (b), (c), and (d)); Title II, Pub. L. 86–618; sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note); 21 CFR 5.10.

§ 81.1 [Amended]

2. In § 81.1 *Provisional lists of color additives* in paragraph (a) by revising the closing date for "FD&C Yellow No. 6" to read "June 6, 1986" and by revising the closing date for "FD&C Red No. 3" to read "September 3, 1986" and in paragraph (b) by revising the closing dates for "D&C Orange No. 17," "D&C Red No. 8," "D&C No. 9," "D&C No. 19," and "D&C Red No. 37" to read "June 6, 1986" and by revising the closing dates for "D&C Red No. 33" and "D&C Red No. 36" to read "September 3, 1990."

3. In § 81.27 by removing paragraph (e), by revising the introductory text of paragraph (d), and by revising paragraph (d) (1), (2), and (3), to read as follows:

§ 81.27 Conditions of provisional listing.

* * * * *

(d) The closing dates and dates for final reports for the following 11 color additives are postponed in accordance with the following list while chronic toxicity feeding studies are conducted and evaluated and subject to compliance with the requirements of this paragraph:

	Final report due	Closing date
D&C Orange No. 17		June 6, 1986.
D&C Red No. 3		Sept. 3, 1986.
D&C Red No. 8		June 6, 1986.
D&C Red No. 9		Do.
D&C Red No. 19		Do.
D&C Red No. 33	Sept. 3, 1989	Sept. 3, 1990.
D&C Red No. 36	Do	Do.
D&C Red No. 37		June 6, 1986.
FD&C Yellow No. 5		Sept. 3, 1985.
FD&C Yellow No. 6		June 6, 1986.
FD&C Blue No. 2		Date of final decision on permanent listing.

(1) At least one interested party for each of the color additives D&C Red No. 33 and D&C Red No. 36 shall agree in writing by October 3, 1985, to undertake the required studies on these two color additives.

(2) The interested party undertaking the studies shall submit a protocol for the conduct of the studies to the Division of Food and Color Additives (HFF–330), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, for review and acceptance or rejection by November 2, 1985.

(3) An initial progress report of the studies shall be submitted to the Division of Food and Color Additives by June 30, 1986. Further progress reports shall be submitted at 6-month intervals.

* * * * *

Dated: June 17, 1985.

Frank E. Young, M.D., Ph.D.,

Commissioner of Food and Drugs.

[FR Doc. 85–15378 Filed 6–24–85; 10:54 am]

BILLING CODE 4160–01–M

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21 CFR Part 146

[Docket No. 84N–0403]

Nectars of Certain Citrus Fruits; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of developing a U.S. standard based on the Codex Alimentarius Commission Standard for Nectars of Certain Citrus Fruits (Codex Stan 134–1981) (Codex standard). The response to FDA's request for comments on the provisions of the Codex standard and on the desirability of, and need for, establishing a U.S. standard for nectars of certain citrus fruits indicates that there is neither sufficient interest nor need to warrant proposing a U.S. standard for this food. FDA, therefore, has terminated consideration of developing a U.S. standard for nectars of certain citrus fruits based on the Codex standard.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Centers for Food Safety and Applied Nutrition (HFF–214), Food and Drug Administration, 200 C Streets SW., Washington, DC 20204, 202–485–0107.

SUPPLEMENTARY INFORMATION: In the Federal Register of January 25, 1985 (50 FR 3538), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex standard for nectars of certain citrus fruits and to comment on the desirability of, and need for, a U.S. standard for this food. The Codex standard was submitted to the United States for consideration of acceptance by the Joint Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission.

Comments were received from three trade associations and from a fruit juice product manufacturer in response to the advance notice of proposed rulemaking. All opposed the establishment of a standard of identity for nectars of certain citrus fruits.

One trade association stated that there is no need for the development of a U.S. standard for nectars of certain citrus fruits. Two trade associations added that citrus nectars are not a commercially established category of beverages in the United States. The juice product manufacturer stated that a U.S. standard for canned nectars covering only certain fruits is not in the public interest.

Having considered the comments and all other relevant information, FDA has concluded that there is neither sufficient interest nor need to warrant proposing a U.S. standard at this time for nectars of certain citrus fruits under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing a U.S. standard for nectars of certain

citrus fruits based on the Codex standard. This action is without prejudice to further consideration of the development of a U.S. standard for nectars of certain citrus fruits upon appropriate justification.

FDA will inform the Codex Alimentarius Commission that an imported food that complies with the requirements of the Codex standard for nectars of certain fruits may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: June 18, 1985.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-15277 Filed 6-25-85; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 146

[Docket No. 84N-0405]

Blackcurrant Juice; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of developing a U.S. standard based on the Codex Alimentarius Commission Standard for Blackcurrant Juice (Codex Stan 120-1981) (Codex Standard). The response to FDA's request for comments on the provisions of the Codex standard and on the desirability of, and need for, establishing a U.S. standards for blackcurrant juice indicates that there is neither sufficient interest nor need to warrant proposing a U.S. standard for this food. FDA, therefore, has terminated consideration of developing a U.S. standard for blackcurrant juice based on the Codex standard.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (HFF-214), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 25, 1985 (50 FR 3533), FDA published an advance notice of proposed rulemaking which offered interested persons an opportunity to review the Codex Standard for blackcurrant juice and to comment on the desirability of, and need for, a U.S. standard for this food. The Codex standard was submitted to the United States for consideration of acceptance by the Joint Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission.

One comment was received from a trade association in response to the advance notice of proposed rulemaking. The association, on behalf of its members who pack fruit juices and nectars, opposed the establishment of a standard of identity for blackcurrant juice, stating that there is not need for the development of a United States standard for the food.

Having considered the comment and all other relevant information, FDA has concluded that there is neither sufficient interest nor need to warrant proposing a U.S. standard at this time for blackcurrant juice under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing a U.S. standard for blackcurrant juice based on the Codex standard. This action is without prejudice to further consideration of the development of a U.S. standard for blackcurrant juice upon appropriate justification.

FDA will inform the Codex Alimentarius Commission that an imported food that complies with the requirements of the Codex standard for blckcurrant juice may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: June 18, 1985.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-15281 Filed 6-25-85; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 146

[Docket No. 84N-0404]

Concentrated Blackcurrant Juice; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of developing a U.S. standard based on the Codex Alimentarius Commission Standard for Concentrated Blackcurrant Juice (Codex Stan 121-1981) (Codex standard). The response to FDA's request for comments on the provisions of the Codex standard and on the desirability of, and need for, establishing a U.S. standard for desirabilty of, and need for, establishing a U.S. standard for concentrated blackcurrant juice indicates that there is neither sufficient interest nor need to warrant proposing a U.S. standard for this food. FDA, therefore, has terminated consideration of developing a U.S. standard for concentrated blackcurrant juice based on the Codex standard.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 25, 1985 (50 FR 3535), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex standard for concentrated blackcurrant juice and to comment on the desirability of, and need for, a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for acceptance by the Joint Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission.

A single letter was received from a trade association in response to the advance notice of proposed rulemaking. The association, on behalf of its members who pack fruit juices and nectars, opposed the establishment of a standard of identity for concentrated blackcurrant juice, stating that there is no need for the development of a U.S. standard for the food.

Having considered the comment and all other relevant information, FDA has concluded that there is neither sufficient interest nor need to warrant proposing a U.S. standard at this time for concentrated blackcurrant juice under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing a U.S. standard for concentrated blackcurrant juice based on the Codex standard. This action is without prejudice to further consideration of the development of a U.S. standard for concentrated blackcurrant juice upon appropriate justification.

FDA will inform the Codex Alimentarius Commission that an imported food that complies with the

requirements of the Codex standard for concentrated blackcurrant juice may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: June 18, 1985.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 15278 Filed 6-25-85; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 146

[Docket No. 84N-0402]

Pulpy Nectars of Certain Small Fruits; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of developing a U.S. standard based on the Codex Alimentarius Commission Standard for Pulpy Nectars of Certain Small Fruits (Codex Stan 122-1981) (Codex standard). The response to FDA's request for comments on the provisions of the Codex standard and on the desirability of, and need for, establishing a U.S. standard for pulpy nectars of certain small fruits indicates that there is neither sufficient interest nor need to warrant proposing a U.S. standard for this food. FDA, therefore, has terminated consideration of developing a U.S. standard for pulpy nectars of certain small fruits based on the Codex standard.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 30, 1985 (50 FR 4231), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex standard for pulpy nectars of certain small fruits and to comment on the desirability of, and need for, a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for acceptance by the Joint Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission.

Letters were received from a trade association and from a canned juice manufacturer in response to the advance notice of proposed rulemaking. Both opposed the establishment of a standard of identity for pulpy nectars of certain small fruits. The trade association stated that there is need for the development of a U.S. standard for pulpy nectars of certain small fruits. The juice product manufacturer stated that a U.S. standard for canned nectars covering only certain fruits is not in the public interest.

Having considered the comments and all other relevant information, FDA has concluded that there is neither sufficient interest nor need to warrant proposing a U.S. standard at this time for pulpy nectars of certain small fruits under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing a U.S. standard for pulpy nectars of certain small fruits based on the Codex standard. This action is without prejudice to further consideration of the development of a U.S. standard for pulpy nectars of certain small fruits upon appropriate justification.

FDA will inform the Codex Alimentarius Commission that an imported food that complies with the requirements of the Codex standard for pulpy nectars of certain small fruits may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: June 18, 1985.

Sanford A. Miller,

Director, Center for Food and Safety and Applied Nutrition.

[FR Doc. 85-15279 Filed 6-25-85; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 146

[Docket No. 84N-0406]

Non-Pulpy Blackcurrant Nectar; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; termination of consideration.

SUMMARY: The Food and Drug Administration (FDA) is terminating consideration of developing a U.S. standard based on the Codex Alimentarius Commission Standard for Non-Pulpy Blackcurrant Nectar (Codex Stan 101-1981) (Codex standard). The response to FDA's request for comments on the provisions of the Codex standard and on the desirability of, and need for, establishing a U.S. standard for non-pulpy Blackcurrant Nectar indicates that there is neither sufficient interest nor need to warrant proposing a U.S. standard for this food. FDA, therefore, has terminated consideration of developing a U.S. standard for non-pulpy blackcurrant nectar based on the Codex standard.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Center for Food Safety and Applied Nutrition (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0107.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 25, 1985 (50 FR 3541), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex standard for non-pulpy blackcurrant nectar and to comment on the desirability of, and need for, a U.S. standard for this food. The Codex standard was submitted to the United States for consideration of acceptance by the Joint Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission.

One comment was received from a trade association in response to the advance notice of proposed rulemaking. The association, on behalf of its members who pack fruit juices and nectars, opposed the establishment of a standard of identity for non-pulpy blackcurrant nectar, stating that there is no need for the development of a U.S. standard for the food.

Having considered the comment and all other relevant information, FDA has concluded that there is neither sufficient interest nor need to warrant proposing a U.S. standard at this time for non-pulpy blackcurrant nectar under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing a U.S. standard for non-pulpy blackcurrant nectar based on the Codex standard. This action is without prejudice to further consideration of the development of a U.S. standard for non-pulpy blackcurrant nectar upon appropriate justification.

FDA will inform the Codex Alimentarius Commission that an imported food that complies with the requirements of the Codex standard for non-pulpy blackcurrant nectar may move freely in interestate commerce in

this country, providing it complies with applicable U.S. laws and regulations.

Dated: June 18, 1985.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-15280 Filed 6-25-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-227-84]

Limitation on Investment Credit in the Case of Certain Regulated Companies; Synchronization of Interest; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the limitation on the investment credit in the case of certain regulated companies. Questions have arisen concerning the permissibility of synchronization of interest under the ratable flow-through method of accounting for the investment credit with respect to public utility property. The proposed regulations would provided guidance on this issue and would affect regulated companies that use the ratable flow-through method of accounting for the investment credit with respect to public utility property.

DATES: Written comments or requests for a public hearing must be delivered or mailed by July 26, 1985. The amendments are proposed to be effective generally with respect to all property to which section 46(f) applies [generally, public utility property constructed or acquired by the taxpayer after August 15, 1971]. See section 105(d) of the Revenue Act of 1971 (1972)-1 C.B. 443).

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T [LR-227-84], Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Paulette Chernyshev of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3288, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 46(f) of the Internal Revenue Code of 1954, relating to the limitation on the investment credit in the case of certain regulated companies. Section 46(f) was added to the Code by section 105(c) of the Revenue Act of 1971 (Pub. L. No. 92-178; 85 Stat. 503). The proposed amendments clarify the manner in which the limitation applies in the case of regulated companies that use the ratable flow-through method of accounting for the investment credit with respect to public utility property.

Explanation of Provisions

Section 46(f)(2) permits the use of a ratable flowthrough method of accounting for the investment credit with respect to public utility property. Under this method of accounting, the taxpayer's cost of service for ratemaking purposes may be reduced by a ratable portion of the investment credit. The credit is disallowed, however, if the cost of service is reduced by more than a ratable portion of the credit or if the base to which the taxpayer's rate of return for ratemaking purposes is applied ("rate base") is reduced by any portion of the credit.

In determining whether a credit has been used to reduce rate base, § 1.46-6(b)(3) of the regulations requires reference to "any accounting treatment that affects the permitted return on investment by treating the credit in any way other than as though it were capital supplied by common shareholders to which a 'cost of capital' rate is assigned that is not less than the taxpayer's overall cost of capital rate." This requirement appears only in the definition of rate base and it is unclear whether the credit also must be treated as capital provided by common shareholders in determining cost of service. As a result, the Service has received a number of ruling requests asking whether a portion of the return on the rate base attributable to the credit may be characterized as interest expense and taken into account in computing Federal income tax expense for ratemaking purposes ("interest synchronization").

This issue is addressed indirectly in several cases reviewing rate orders. Although the permissibility of synchronization of interest was an issue in these reviews, the Internal Revenue Service was not a party to the cases and the decisions did not determine the actual tax liability of the regulated companies. Two Courts of Appeals determined that interest synchronizaiton does not violate section 46(f)(2) or the existing regulations. *Union Electric* v. *FERC*, 668 F.2d 389 (8th Cir. 1981); *Nepco Municipal Rate Commission* v. *FERC*, 668 F.2d 1327 (D.C. Cir. 1981); *Public Service of New Mexico* v. *FERC*, 653 F.2d 681 (D.C. Cir. 1981). Other courts, however, concluded that synchronization of interest is not permitted under section 46(f)(2) and the existing regulations. See, *Utilities Commission* v. *Carolina Telephone & Telegraph*, 300 S.E. 2d 395 (1983).

Although synchronization of interest reduces cost of service, the Service has concluded that this reduction is not attributable to the credit. This conclusion is consistent with financial market realities since, in the absence of the credit, the additional capital needed to finance the investment property generally would be obtained from a similar proportion of debt and equity as in the existing capital structure of the utility. Synchronization of interest properly takes account of the additional interest expense that would have been incurred in those circumstances.

Further, the Service believes that synchronization of interest under section 46(f)(2) results in an appropriate accounting for the credit in establishing rates. The basis for this conclusion may be illustrated by a comparison of the rates that would be established without synchronization of interest with the rates that would be established if the credit were unavailable. Under certain factual circumstances (e.g., long-lived assets with respect to which the credit was allowed), the rates that would be established without synchronization of interest may acutally exceed in one or more service years the rates that would be established if the credit were unavailable. In contrast, the rates that would be established with synchronization of interest cannot exceed in any year the rates that would be established if the credit were unavailable. Accordingly, the proposed amendments would clarify that interest synchronization is permitted under a ratable flowthrough method of accounting.

More generally, the amendments would provide that the extent to which cost of service or rate base is reduced by reason of the credit is determined by reference to the capital that would have been provided by common and preferred shareholders and long-term creditors if the credit were unavailable. Thus, a reduction in Federal income tax expense to reflect the additional interest the taxpayer would pay or accrue if the credit were unavailable is not treated as

a reduction in cost of service by reason of the credit for purposes of section 46(f)(2). Similarly, assigning the credit the overall cost of capital rate, determined on the basis of a weighted average, for the capital that would have been provided if the credit were unavailable is not treated as a reduction in rate base by reason of the credit. The proposed regulations provide that the composition of the capital that would have been provided if the credit were unavailable depends on the facts and circumstances, but permit determinations that additional capital would have been provided in the same proportions and at the same rates of return as the capital actually provided by common and preferred shareholders and long-term creditors.

Amendments Not Covered by These Proposed Regulations

The proposed amendments do not reflect amendments made to section 46 after the enactment of the Revenue Act of 1971, other than the redesignation of section 46(e) as section 46(f) by the Tax Reduction Act of 1975. In addition, the proposed regulations do not reflect the amendment made to section 167(l)(2)(C) by section 209(d)(3) of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34, 95 Stat. 227). That amendment has the effect of eliminating the special rule for immediate flowthrough under section 46(f)(3) for property placed in service after December 31, 1980.

Regulatory Flexibility Act; Executive Order 12291

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6). The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291, and that a regulatory impact analysis therefore is not required.

Comments and Requests for A public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner of Internal Revenue by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Paulette Chernyshev of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of both substance and style.

List of Subjects in 26 CFR Parts 1.01-1-1.58-8

Income taxes, Tax liability, Tax rates, Credits.

Proposed Amendments to the Regulations

PART 1—[AMENDED]

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. The authority citation for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805; * * * § 1.46-6 also issued under 26 U.S.C. 46 (f)(7) * * *.

Par. 2. Section 1.46-6 is amended by revising paragraph (b)(2)(i), (3), and (4)(ii) to read as follows:

§ 1.46-6 Limitation in case of certain regulated companies.

* * * * *

(b) *Definitions.* * * *

(2) *Cost of service.* (i)(A) For purposes of this section, "cost of service" is the amount required by a taxpayer to provide regulated goods or services. Cost of service includes operating expenses (including salaries, cost of materials, etc.) maintenance expenses, depreciation expenses, tax expenses, and interest expenses. For purposes of this section, any effect on a taxpayer's permitted return on investment that results from a reduction in the taxpayer's rate based does not constitute a reduction in cost of service, even though, as a technical ratemaking term, "cost of service" ordinarily includes a permitted return on investment. In addition, taking into account a deduction for the additional interest that the taxpayer would pay or accrue if the credit were unavailable in determining Federal income tax expense ("synchronization of interest") does not constitute a reduction in cost of service for purposes of section 46(f)(2). This adjustment to Federal income tax expense may be taken into account in determining cost of service for the regulated accounting period or periods that include the taxable year to which the adjustment relates or for any subsequent regulated accounting period.

(B) See paragraph (b)(3)(ii)(B) of this section for rules relating to the amount of additional interest that the taxpayer would pay or accrue if the credit were unavailable.

* * * * *

(3) *Rate base.* (i) For purposes of this section, "rate base" is the monetary amount that is multiplied by a rate of return to determine the permitted return on investment.

(ii)(A) In determining whether, or to what extent, a credit has been used to reduce rate base, reference shall be made to any accounting treatment that affects rate base. In addition, in those cases in which the rate of return is based on the taxpayer's cost of capital, reference shall be made to any accounting treatment that reduces the permitted return on investment by treating the credit less favorably than the capital that would have been provided by common and preferred shareholders and long-term creditors if the credit were unavailable. Thus, the credit may not be assigned a "cost of capital" rate that is less than the overall cost of capital rate, determined on the basis of a weighted average, for the capital that would have been provided by such shareholders and creditors if the credit were unavailable.

(B) For purposes of determining the cost of capital rate assigned to the credit and the amount of additional interest that the taxpayer would pay or accrue, the composition of the capital that would have been provided if the credit were unavailable depends on all the relevant facts and circumstances. For this purpose, however, such capital ordinarily may be considered to be provided by common shareholders, preferred shareholders, and long-term creditors in the same proportions and at the same rates of return as the capital actually provided to the taxpayer by such shareholders and creditors.

(iii) Whether, or to what extent, a credit has been used to reduce rate base for any period to which pre-1986 rates apply will be determined under 26 CFR 1.46-6(b) (3) and (4) (revised as of April 1, 1985) if such a determination avoids disallowance of a credit that would be disallowed under paragraph (b)(3)(ii) or (4)(ii) of this section. For this purpose, a period to which pre-1986 rates apply is any period for which the effect of the

credit on rate base for ratemaking purposes is established under a determination put into effect before January 1, 1986 (within the meaning of paragraph (f) of this section).

(4) Indirect reductions to cost of service or rate base. * * *

(ii) One type of such indirect reduction is any ratemaking decision in which the credit treated as operating income (subject to ratemaking regulation) or is treated less favorably than the capital that would have been provided if the credit were unavailable. For example, if the credit is accounted for as nonoperating income on a company's regulated books of account but a ratemaking decision has the effect of treating the credit as operating income in determining rate of return to common shareholders, then cost of service has been indirectly reduced by reason of the credit.

* * * * *

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 85-15160 Filed 6-21-85; 9:22 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

Public Comment Period and Opportunity for Public Hearing on Proposed Amendment to the Virginia Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and for requesting a public hearing on the substantive adequacy of a proposed amendment submitted by the Commonwealth of Virginia as a modification to its permanent regulatory program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of State statutory changes altering the criteria used to determine whether a surface coal mining operation affects two acres or less.

This notice sets forth the times and locations that the Virginia program and proposed amendment will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing.

DATES: Written comments from the public not received by 4:00 p.m. on July 26, 1985, will not necessarily be considered in the decision process. A public hearing on the proposed amendment has been scheduled for July 22, 1985, at the location under **"ADDRESSES"**. Requests for a public hearing should be directed to Mr. Robert Penn at the address or telephone number listed below by 4:00 p.m., July 11, 1985. If no one has contacted Mr. Penn by that date to express an interest in the hearing, the hearing will be cancelled. If only one person requests a public hearing, a public meeting, rather than a hearing, may be held; the results of the meeting will be included in the administrative record.

ADDRESSES: The public hearing is scheduled for 1:00 p.m. in the Conference Room of the Lebanon Area Office, Office of Surface Mining, Flannagan and Carroll Streets, Lebanon, Virginia 24266.

Written comments and requests for a hearing should be mailed or hand delivered to: Mr. Robert Penn, Acting Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, P.O. Box 626, Big Stone Gap, Virginia 24219, Telephone: (703) 523-4303.

Copies of the Virginia program, the proposed modifications to the program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review and copying at the OSM offices and the State regulatory authority office listed below, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays. Each requestor may receive, free of charge, one copy of the proposed amendment by contacting the OSM Big Stone Gap Field Office.

Office of Surface Mining Reclamation and Enforcement, Big Stone Gap Field Office, P.O. Box 626, Big Stone Gap, Virginia 24219, Telephone: (703) 523-4303

Office of Surface Mining Reclamation and Enforcement, Lebanon Area Office, Flannagan and Carroll Streets, P.O. Box 487, Lebanon, Virginia 24266, Telephone (703) 889-4032

Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street, N.W., Room 5124, Washington D.C. 20240, Telephone: (202) 343-7896

Virginia Division of Mined Land Reclamation, 622 Powell Avenue, Big Stone Gap, Virginia 24219, Telephone: (703) 523-2925

FOR FURTHER INFORMATION CONTACT: Robert Penn, Acting Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, P.O. Box 626, Big Stone Gap, Virginia 24219, Telephone: (703) 523-4303.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Interior conditionally approved the Virginia program on December 15, 1981. Information pertinent to the general background, revisions, modifications and amendments to the permanent program submission, as well as the Secretary's finding, the disposition of comments and a detailed explanation of the conditions of approval of the Virginia program can be found in the December 15, 1981 **Federal Register** (46 FR 61088-61115).

II. Submission of Amendment

By letter dated May 1985, Virginia submitted Chapter 331 of the Virginia Acts of Assembly, 1985 session, as enacted on March 17, 1985. The proposed amendment, as received by OSM on June 6, 1985, would repeal Section 45.1-364 of Chapter 23 of the Code of Virginia and replace it with a new Section 45.1-364.1. These revisions establish new criteria to be used in determining whether a surface coal mining operation will be regulated under Chapter 23 (governing mines two acres or smaller in size), or whether it is subject to the permanent program requirements of Chapter 19. Specifically, Section 45.1-364.1 provides that the criteria established in Chapter 19 and the regulations issued thereunder shall be used to determine the size of the affected area.

In accordance with the provisions of 30 CFR 731.17, OSM is now seeking comments on whether the proposed statutory modifications to Virginia's permanent regulatory program satisfy the criteria for approval of State program amendments set forth at 30 CFR 732.15 and 732.17. If approved, the amendment will become part of the Virginia program.

III. Procedural Requirements

1. Compliance With the National Environmental Policy Act

The Secretary has determined that pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

The rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 946

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: June 17, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

[FR Doc. 85-15295 Filed 6-25-85; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300132; PH-FRL 2853-9]

Ammonium Polyphosphate; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that ammonium polyphosphate be exempted from the requirements of a tolerance when used as an inert ingredient (sequestrant, buffer, or surfactant) in pesticide formulations. This proposed regulation was requested by the Rohm and Haas Co.

DATE: Written comments, identified by the document control number [OPP-300132], must be received on or before July 26, 1985.

ADDRESS:

By mail, submit comments to: Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

In person, deliver comments to: Registration Support and Emergency Response Branch, Registration Division (TS-767), Environmental Protection Agency, Room 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Office location and telephone number: Registration Support and Emergency Response Branch, Room 724A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7700).

SUPPLEMENTARY INFORMATION: At the request of the Rohm and Haas Co., the Administrator proposes to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for ammonium polyphosphate when used as a sequestrant, buffer, or surfactant in pesticide formulations applied to growing crops only.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting and spreading agents; and propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient. Ammonium polyphosphate.

Name and address of requestor. Rohm and Haas Co., Philadelphia, PA 19105.

Bases for approval. A large number of salts of ortho- and polyphosphoric acids are cleared under 40 CFR 180.1001 or are GRAS under title 21 of the Code of Federal Regulations.

1. Monoammonium phosphate is cleared under 40 CFR 180.1001(c) at no more than 3.75 percent by weight in formulation.

2. Ammonium phosphate (mono and dibasic) is cleared under 21 CFR 582.1141 as a general purpose food additive.

3. Sodium acid pyrophosphate is cleared under 40 CFR 180.1001(c), 21 CFR 582.1087 as a general purpose food additive, and 21 CFR 182.1087 as a multiple purpose GRAS food substance.

4. Sodium hexametaphosphate is cleared under 40 CFR 180.1001(c), 21 CFR 582.6760 as a sequestrant, and 21 CFR 182.6760 as a sequestrant.

5. Sodium metaphosphate is cleared under 21 CFR 582.6769 as a sequestrant and 21 CRR 182.6769 as a sequestrant.

6. Sodium pyrophosphate is cleared under 21 CFR 582.6787 as a sequestrant and 21 CFR 182.6787 as a sequestrant.

7. Sodium tripolyphosphate is cleared under 40 CFR 180.1001(c), 21 CFR 582.1810 as a general purpose food additive, 21 CFR 582.6810 as a sequestrant, 21 CFR 182.1810 as a multiple purpose GRAS food substance, and 21 CFR 182.6810 as a sequestrant.

8. Tetrasodium pyrophosphate is cleared under 40 CFR 180.1001(c) as a sequestrant, and 21 CFR 182.6789 as a sequestrant.

9. Ammonium nitrate is cleared under 40 CFR 180.1018 when used as a desiccant or defoliant in the production of cottonseed, grain sorghum, peppers, potatoes, and sweet potatoes.

Considering the aforementioned clearances of the various ortho- and polyphosphoric acid salts, the Agency does not consider the clearance of ammonium polyphosphate under 40 CFR 180.1001(d) to the toxicologically significant.

Based on the above information and review of its use, it has been found that when used in accordance with good agricultural practices this ingredient is

useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendments to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, that contains this inert ingredient may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number [OPP-300132]. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement of this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: June 14, 1985.

Robert V. Brown,

Acting Director, Registration Division Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for 40 CFR Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.1001(d) is amended by adding and alphabetically inserting the inert ingredient as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(D) * * *

Inert ingredients	Limits	Uses
* * * *		
Ammonium polyphosphate (CAS Reg. No. 68333-79-9)		Sequestrant, buffer, or surfactant.
* * * *		

* * * * *

[FR Doc. 85-15102 Filed 6-25-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 266

[SWH-FRL-2855-3]

Hazardous Waste Management System; Burning of Waste as Fuel; Availability of Information

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of information and request for comments.

SUMMARY: The Environmental Protection Agency today announces the availability of supplementary comments submitted by the American Petroleum Institute (API) to the EPA public docket for rules proposed January 11, 1985: Burning of Waste as Fuel. The Agency intends to consider API's comments in its rulemaking and requests public comment.

The information noted for comment consists of a brief letter of transmittal and a seventy page report entitled: *Fate of Selected Trace Metals in the Petroleum Refining Industry*. The data is submitted by API to support the granting of an exemption for hazardous waste-derived fuels from petroleum refining operations.

DATE: Comments on the information here noticed must be submitted on or before August 12, 1985.

ADDRESS: Comments should be addressed to Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. All communications should identify the information as *API Comments on Fate of Trace Metals.*

Copies of this information are available for reading at the EPA Library Public Information Reference Unit (Room 2904) and the Subtitle C Docket Room (Room S212), both located at 401 M Street SW., Washington, D.C., as well as at all Regional Office Libraries, Monday through Friday during the hours of 9:00 a.m. to 4:30 p.m. A limited number of individual copies of the information may be obtained by calling the RCRA Hotline at (800) 424-9346 (toll free) or at (202) 382-3000.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, at (800) 424-9346 (toll free) or at (202) 382-3000. For technical information, contact David Sussman, Office of Solid Waste (WH-565A), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, at (202) 382-7917.

SUPPLEMENTARY INFORMATION: Subtitle C of the Resource Conservation and Recovery Act (RCRA), section 3004(q), requires the Environmental Protection Agency (EPA) to promulgate regulations setting performance standards for owners and operators of facilities that produce fuels from hazardous wastes, or that market or burn such fuels. The first phase of EPA's regulations implementing this provision were proposed in the January 11, 1985, **Federal Register** (50 FR 1684). These rules would regulate hazardous waste and used oil burned for energy recovery in boilers and industrial furnaces. Under the proposal, hazardous wastes generated during petroleum refining (such as EPA Hazardous Waste K048-K052) and later recycled back into the refining process would have the effect of causing fuels so produced to be classified as hazardous waste fuels, since the fuels contain hazardous wastes as a constituent.

The Agency stated in the January 11, 1985, proposal that it intended to exempt petroleum fuel products containing hazardous waste that is generated in the refining process itself, or is generated from petroleum production and transportation, from the proposed hazardous waste as fuel rules, subject to certain limitations, provided data was available substantiating that recycling of the wastes results in insignificant increases of toxic constituents to the refining end products (50 FR at 1689). All such fuels are presently exempt from any regulation. (50 FR 14218, April 11, 1985).

The American Petroleum Institute has gathered data for EPA's consideration to show that the wastes when recycled back into the refining process do not add significant concentrations of contaminants, specifically trace metals, to the fuel product. API submitted data purporting to support this claim prior to proposal, more data during the formal comment period, and now this additional information.

The Agency will consider the data noticed today, and all comments received as a result of this notice in its decision as to whether to exempt hazardous wastes fuels from refining operations.

Dated: June 18, 1985

Jack W. McGraw,

Acting Assistant Administrator for Solid Waste and Emergency Response.

[FR Doc. 85-15326 Filed 6-25-85; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 50, No. 123
Wednesday, June 26, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation will meet in the Secretary's Conference Room, Room 5160, Interior Building, 18th and C Streets NW, Washington, D.C., on Friday, July 12, 1985

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. Section 470) to advise the President and the Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol; the Secretaries of the Interior, Agriculture, Housing and Urban Development, Treasury, and Transportations; the Director, Office of Administration; the Chairman of the National Trust for Historic Preservation; the Chairman of the National Conference of State Historic Preservation Officers; a Governor; a Mayor; and eight non-Federal members appointed by the President.

The Agenda for the meeting includes the following:

Friday, July 12, 1985
Secretary's Conference Room, Room 5160, Interior Building, Washington, D.C., 9:30 a.m.
Call to Order
Chairman's Welcome
Consideration of the Minutes of the February 15, 1985, Meeting
I. Report of the Executive Director
A. Budget
B. 1986 Annual Report
C. Training
II. Report of the Regulations Task Force
Recess for Lunch
12:30 p.m.
III. Report of the General Counsel
IV. Report of the Office of Cultural Resource Preservation
VI. New Business

DATE: The meeting will begin at 9:30 a.m., Friday, July 12, 1985.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW, Suite 809, Washington, D.C. 20004, 202–786–0503.

Dated: June 19, 1985.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 85–15296 Filed 6–25–85; 8:45 am]

BILLING CODE 4310–10–M

Programmatic Memorandum of Agreement on the Activities of the Department of the Army at Fort Monroe, VA.

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: This notice provides information about and invites comments on a proposed Programmatic Memorandum of Agreement that provides for the development of a Preservation Plan for the identification, inventory, evaluation and treatment of historic, architectural and cultural properties at Fort Monroe, Virginia.

The Council proposes to execute a Programmatic Memorandum of Agreement pursuant to § 800.8 of its regulations (36 CFR Part 800) with the Department of the Army and the Virginia State Historic Preservation Officer. The proposed agreement establishes standards for a Preservation Plan at Fort Monroe which will coordinate the management of historic, architectural and cultural properties with the activities of the Army on the Fort. The Army's responsibilities at the Fort pursuant to Sections 106 and 110(f) of the National Historic Preservation Act will be fulfilled by implementation of the proposed Agreement. Interested parties are encouraged to obtain a copy of the proposed Agreement from the Council and submit comments.

DATE: Comments Due: Comments must be submitted on or before July 26, 1985.

ADDRESS: Executive Director, Advisory Council on Historic Preservation, The Old Post Office, 1100 Pennsylvania Avenue, NW., Room 809, Washington DC 20004.

Dated: June 19, 1985.

Robert R. Garvey,

Executive Director.

[FR Doc. 85–15298 Filed 6–25–85; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

June 21, 1985.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. this list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so

promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

- Animal and Plant Health Inspection Service

7 CFR Part 353 Phytosanitary Export Certification
PPQ 572, 577, 579
On occasion
Individuals or households; Farms; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small Businesses or organizations; 125,000 responses; 20,000 hours; not applicable under 3504(h)
Leonard Crawford, (301) 437–8537

- Food and Nutrition Service

Application for Participation—Agreement Between School Food Authority and USDA
FNS 66, 67
Recordkeeping; Annually
Non-profit institutions; 1,271 responses; 1,301 hours; not applicable under 3405(h)
Albert V. Perna, (703) 756–3600

- Food and Nutrition Service

Food Requisition
FNS 52
On occasion
State or local governments; 8,736 responses; 17,472 hours; not applicable under 3504(h)
Don McCreary, (703) 756–3600

- Food and Nutrition Service

Participation by Charitable Institutions
FNS 706–1
Semi-Annually
State or local governments; 57 responses; 171 hours; not applicable under 3405(h)
Don McCreary, (703) 756–3600

- Food and Nutrition Service

Multi-Food Requisition
FNS 53
On occasion
State of local government; 960 responses; 2,880 hours; not applicable under 3504(h)
Bessie Bradford, (703) 756–3660

New

- Food and Nutrition Service

Survey of Computer Applications for the Management of the Child Care Food Program
One-time response
State or local governments; Non-profits institutions; 853 responses; 426 hours; not applicable under 3405(h)
May Lou Wheeler, (703) 756–3888.

Revision

- Agricultural Stabilization and Conservation Service

7 CFR Part 700—Conservation and Environmental Programs Regulations and Form ACP–245, Request for Cost-Sharing
ACP–245
On occasion
Individuals or households; Farms; 216,400 responses; 90,167 hours; not applicable under 3504(h)
Charles W. Sims, (202) 447–7334.

Larry K. Roberson,
Acting Departmental Clearance Officer.
[FR Doc. 85–15345 Filed 6–25–85; 8:45 am]
BILLING CODE 3410–01–M

Forest Service

Routt National Forest Grazing Advisory Board; Meeting

The Routt National Forest Grazing Advisory Board will meet July 23, 1985, at the Routt National Forest Supervisor's Office, 29587 West U.S. 40, Steamboat Springs, Colorado. The board will leave at 9:00 a.m. to review management of sheep and cattle allotments in the Elk River drainage on the Hahns Peak Ranger District.

Other business will include: (1) A short business meeting: (2) a review of the noxious weed program, sagebrush burning project, use of high tension fencing in deep snow country, and management in riparian areas: (3) review the aspen management program on cattle and sheep allotments: (4) review the management on sheep allotments where tree planting activities are occurring.

The meeting will be open to the public. Persons who wish to attend and participate should notify Jim Webb, Routt National Forest (303–879–1722) prior to the meeting. Public members may participate in discussions during the meeting at any time or may file a written statement following the meeting.

Dated: June 12, 1985.

Jack Weissling,
Forest Supervisor.
[FR Doc. 85–15307 Filed 6–25–85; 8:45 am]
BILLING CODE 3410–11–M

Soil Conservation Service

Bayou Pierre Watershed, MS; Finding of No Significant Impact

AGENCY: Soil Conservation Service; USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Bayou Pierre Watershed, Copiah and Lincoln Counties, Mississippi.

FOR FURTHER INFORMATION CONTACT: A.E. Sullivan, State Conservationist, Soil Conservation Service, Suite 1321, Federal Building, 100 West Capitol Street, Jackson, Mississippi 39269, telephone 601–960–5205.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, A.E. Sullivan, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection. The planned works of improvement include accelerated financial and technical assistance for land treatment.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contracting A.E. Sullivan.

No administrative action on implemention of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: June 20, 1985.

A. E. Sullivan,
State Conservationist.
[FR Doc. 85–15312 Filed 6–25–85; 8:45 am]
BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Office of the Secretary

[Docket No. 50585-5085]

Federal Agency Actions Involving use of the Metric System in Providing Meteorological Services and Supporting Research

AGENCY: Office of the Secretary, Assistant Secretary for Productivity, Technology and Innovation, Commerce.

SUMMARY: This notice is published to inform interested parties and the public of the policy of the Federal agency members of the Interdepartmental Committee on Meteorological Services and Supporting Research (ICMSSR) to implement certain actions involving the use of the metric system in providing meteorological services and supporting research.

The actions described in this notice relate only to the policies and procedures of the Federal agencies in the gathering and exchange of weather data for use by Federal agencies themselves. These actions thus are not intended to affect the general public, although they may affect Federal agency procurement of weather systems from the private sector.

EFFECTIVE DATE OF ACTIONS: All of the policies mentioned in this notice were adopted at the meeting of the ICMSSR on October 4, 1983. Portions of these policies have been implemented, though no effective date for implementation has been prescribed except for termination of the use of the unit "bar" on December 31, 1985.

FOR FURTHER INFORMATION CONTACT:

General: For further information about the purpose of the actions announced in this notice and their relationship to Federal laws and policies concerning the use of the metric system within the United States, contact: Gerald T. Underwood, Director, Office of Metric Programs, U.S. Department of Commerce, Washington, D.C. 20230, Phone: 202-377-0944.

Specific: For further information about any particular action announced in this notice, contact: G. Stanley Doore, Office of the Federal Coordinator for Meteorological Services and Supporting Research, Suite 300, 11426 Rockville Pike, Rockville, Maryland 20852. Phone: 301-443-8704.

Background

Through the ICMSSR, which was created by the Office of Management and Budget in 1964 (at that time known as the Bureau of the Budget) under OMB Circular A-62, Federal agencies coordinate their actions relating to meteorological services and supporting research. Thirteen Government agencies engaged in meteorological activities, or needing meteorological services, are represented. These are the Departments of Commerce, Agriculture, Defense, Energy, Interior, State and Transportation. The Environmental Protection Agency, Federal Emergency Management Agency, National Aeronautics and Space Administration, National Science Foundation, National Transportation Safety Board and the Nuclear Regulatory Commission. The actions announced in this notice were originally developed by the Working Group on Metric Implementation of the ICMSSR.

Acting under the authority of the Secretary of Commerce pursuant to the Metric Conversion Act (Pub. L. 94-168, 89 Stat. 1007; 15 U.S.C. 205), the Assistant Secretary for Productivity, Technology and Innovation is responsible for the overall coordination of Federal actions to facilitate the orderly transition to the use of the metric system within the United States.

Actions

General

Through the ICMSSR, the various Federal agencies have decided to complete the transition to their use of the metric system of measurement as the basic "common denominator" for meteorological data gathering and internal data exchange. The metric system is defined as the International System of Units as established by the General Conference on Weights and Measures in 1960 and as interpreted or modified for the United States by the Secretary of Commerce. Although the metric system will immediately be regarded as the standard within and among the agencies, no action will be taken that requires unreasonable costs, or costs solely to achieve the transition. Although these policies have been adopted by the agencies, the full implementation will be on an "as soon as practicable" basis.

The decisions announced in this notice do not affect reporting of weather data to the media or the general public. Even insofar as the announced policies would require procurement in the future of meteorological equipment capable of readout in metric units, they do not preclude the use of equipment having dual readout capabilities. Also, the policies do not call for procurement of metric capable equipment which is significantly more costly than similar non-metric capable equipment.

Although the kilopascal is being adopted as the basic unit of pressure for data gathering and reporting among Federal agencies, this will not apply to aeronautical operations. For such operations, inches of mercury or hectopascals will continue to be used as appropriate. However, for other purposes the agencies have decided to phase out the use of units of pressure other than the kilopascal by December 31, 1985. This decision conforms to the policies of the World Meteorological Organization (WMO) and the International Civil Aviation Organization (ICAO).

Actions

1. All Federal Automated Weather Information Systems should use metric units as the common denominator within those systems and for interagency weather data exchange. However, retrofitting existing equipment or modifying existing specifications for new instruments is not required. The standard formats document should include metric units.

2. The Federal Standard Definitions for Weather parameters should be in metric of all weather elements. Non-metric units may be included parenthetically.

3. Standard specifications for future Federal procurement of weather observing equipment should be written to ensure that such equipment provides for recording and readout in metric units and, if required, for recording and readout in non-metric units.

4. The agencies will use the kilopascal for all purposes except aeronautical operations where inches of mercury or hectopascal may be used as appropriate. Use of the unit bar will be phased out, and terminated on December 31, 1985. However, retrofitting existing systems or modifying existing specifications for new systems is not required.

Dated: June 20, 1985.

D. Bruce Merrifield,

Assistant Secretary for Productivity, Technology and Innovation.

[FR Doc. 85-15294 Filed 6-25-85; 8:45 am]

BILLING CODE 3510-18-M

International Trade Administration

Notice of Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of

equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with Subsections 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 85–197. Applicant: U.S. Department of Agriculture, Agricultural Research Service, 800 Buchanan Street, Albany, CA 94710. Instrument: Thermal Ionization Mass Spectrometer System, Model 261 and Accessories. Manufacturer: Finnigan MAT, West Germany. Intended use: Studies of biological samples from human experiments, enriched with stable isotopes of minerals. A variety of human nutrition experiments will be conducted to gain a better understanding of mineral metabolism in humans.

The work requires extremely high precision analysis and automation is essential so that enough samples can be analyzed to answer questions on mineral kinetics in man. Application received by Commissioner of Customs: May 16, 1985.

Docket No. 85–198. Applicant: University of Pittsburgh, 3700 O'Hara Street, 848 Benedum Hall, Pittsburgh, PA 15261. Instrument Electron Microscope, Model JEM–2000FX with Accessories. Manufacturer: JEOL, Japan. Intended use: Study of phase transformations in (1) metallic, ceramic, and polymeric systems, (2) mechanical properties, (3) high temperature corrosion and oxidation, (4) magnetic materials, (5) phases in glasses and ceramics, (6) morphology of polymer phases, and (7) morphology of catalysts. The research pursued is fundamental, always publishable, which varies from very basic to more applied. Specific areas of research include the following areas:

(1) Research on high temperature materials, hot corrosion and oxidation of superalloys.

(2) Physical metallurgy, phase transformations, magnetic materials.

(3) Physical metallurgy, thermomechanical processing, engineering steels.

(4) Polymers, morphology and crystallization.

(5) Ceramics, hot corrosion, electronic ceramics.

(6) Ion implantation, nuclear physics.

(7) Catalysts, morphology and life.

Application Received by Commissioner of Customs: May 17, 1985.

Docket No. 85–199. Applicant: U.S. Geological Survey, Western Region, 345 Middlefield Road, M/S 434, Menlo Park, CA 94025. Instrument: Mass Spectrometer, Model MAT 261. Manufacturer: Finnigan MAT, West Germany. Intended use: The instrument is intended to be used to determine geologic sources and geologic ages of rocks and solutes derived from those rocks by natural surface and groundwater, and to analyze for trace elements. Application received by Commissioner of Customs: May 17, 1985.

Docket No. 85–200. Applicant: University of Minnesota, Mineral Resources Research Center, 56 East River Road, Minneapolis, MN 55455. Instrument: Scanning Electron Microscope, Model QS–1. Manufacturer: CSIRO, Australia. Intended use: Study of mineral products processed in North American mineral processing plants. The initial focus will be on Minnesota taconite materials and will subsequently expand to cover sulfide minerals, industrial minerals and relevant basic rock mineralogical studies. Graduate students will also be trained in the operation and application of QEM–SEM as part of relevant thesis research projects. Application received by Commissioner of Customs: May 21, 1985.

Docket No. 85–201. Applicant: The Pennsylvania State University (MSHMC), The Department of Microbiology, P.O. Box 850, Hershey, PA 17033. Instrument: Electron Microscope, Model EM 10–CAS with Accessories. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use: The instrument is intended to be used for conducting the following experiments:

(a) determine the particle to plaque-forming units ratio, (2) compare the morphologies of cells and tissues, normal and malignant, before and after virus infection or transformation; and (3) measure the length of DNA. Application received by Commissioner of Customs: May 21, 1985.

Docket No. 85–202. Applicant: Columbia University (College of Physicians & Surgeons), Ophthalmology Research, 630 West 168th Street, New York, NY 10032. Instrument: Electron Microscope, Model EM 10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: Ultrastructural examination of tissue samples of diseased human eyes to provide information for the best medical treatment and for research purposes. Application received by Commissioner of Customs: May 21, 1985.

Docket No. 85–203. Applicant: The Jackson Laboratory, Bar Harbor, ME 04609. Instrument: Electron Microscope, Model JEM–100CXII and Accessories. Manufacturer: JEOL, Co., Ltd., Japan. Intended use: Analysis of biomedical specimens for basic biological research programs. Experiments will be conducted in order to understand the basic biological processes in normal cells and cells in various disease states. Application received by Commissioner of Customs: May 21, 1985.

Docket No. 85–204. Applicant: University of Minnesota, Department of Plant Pathology, 304 Stakman Hall, 1519 Gortner Avenue, St. Paul, MN 55105. Instrument: Mass Spectrometer, Model VG 7070EQ with Accessories. Manufacturer: V.G. Instruments, Inc., United Kingdom. Intended use: The instrument will be used to confirm the structures of known and identify unknown mycotoxins and also to construct a mass spectral library of the daughter ions of the mycotoxins. In addition, the instrument will be used in the training of graduate students who are studying problems in mycotoxicology. Application received by Commissioner of Customs: May 24, 1985.

Docket No. 85–205. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, 506 S. Wright Street, Urbana, IL 61801. Instrument: Superconducting Solenoid, Model 360–89. Manufacturer: Oxford Instruments Company, United Kingdom. Intended use: The instrument is an accessory to a nmr spectrometer which will be used for research which involves measuring the spectral absorption frequency, spectral line shape, and the spectral relaxation times of nuclei such as ^{1}H, ^{13}C, ^{195}Pt, ^{93}Nb, and many other nuclei present in liquids, solids, or gases of fundamental scientific interest. Much of the research is aimed at understanding phenomena at metal surfaces which underlie the catalytic property of the surfaces. Application received by Commissioner of Customs: May 28, 1985.

Docket No. 85–206. Applicant: North Carolina State University, Box 7212, Raleigh, NC 27695–7212. Instrument: Melt Spinning Apparatus. Manufacturer: Edmund Buhler GmbH and Company, West Germany. Intended use: Studies of rapid solidification of metallic alloys. The initial studies will be concerned with metastable microstructure and/or phases produced by rapid solidification in Ni_3Al-base and Fe_3Al-base materials. Ribbon samples produced by this technique will be studied in terms of their microstructures, crystal structures, and mechanical properties. Application

received by Commissioner of Customs: May 28, 1985.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 85-15292 Filed 6-25-85; 8:45 am]

BILLING CODE 3510-DS-M

Notice of Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 85-182. Applicant: Children's Hospital Corporation, 300 Longwood Avenue, Boston, MA 02115. Instrument: X-Ray Generator, Model GX-20. Manufacturer: Marconi-Avionics Ltd., United Kingdom. Intended Use: The instrument will be used to conduct experiments on the following: (1) X-ray diffraction patterns obtained from myelinated tissues of laboratory animals, (2) isolated filaments and amyloid from autopsy material of Alzheimer's diseased brain and (3) multilayer specimens made from reconstituted membrane lipids and proteins. These experiments will be conducted to characterize the localization of proteins and lipids in the myelin membrane; to determine what stabilizes the packing of the multilamellar myelin sheath; to establish the structural organization of the specialized junctions of myelinated tissue; to determine the conformation of the proteins that constitute the paired helical filaments and amyloid in Alzheimer's diseased brain tissue. Application received by Commissioner of Customs: May 24, 1985.

Docket No. 85-39R. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Instrument: C80 Heatflux Calorimeter and Accessories. Original notice of this resubmitted application was published in the **Federal Register** of December 28, 1984.

Docket No. 85-184. Applicant: Brandeis University, Rosenstiel Basic Medical Sciences Research Center, 415 South Street, Waltham, MA 02254. Instrument: Electron Microscope, Model EM 420 with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use: The instrument is intended to be used for the following research programs: (1) Structural studies of biological complexes and structural studies of cellular actin; (2) Assembly of viruses, membranes and tissues; (3) muscle structure and the contractile mechanism; and (4) physical-chemical basis for the contractile mechanism. In each research project, the primary goal is to determine the three-dimensional structure of organized macromolecular systems and to understand their functions in terms of dynamic states of their structures. Application received by Commissioner of Customs: May 8, 1985.

Docket No. 85-188. Applicant: Oakland University, Institute of Biological Sciences, Rochester, MI 48063. Instrument: Scanning Electron Microscope, Model DS-130. Manufacturer: Akashi-Seisakusho Ltd., Japan. Intended use: Research which will include structural studies during (a) cataract development and reversal, (b) the involvement of certain enzymes in tissue repair and re-establishment of transparency of the lens, (c) the effects of intracellular ions on membrane permeability, (d) cell to cell communication, (e) correlation of morphological changes with transport characteristics in the lens, the pigment epithelium of the retina and the ciliary epithelial cells, (f) endothelial cell structure and corneal swelling, (g) the role of oxidative insult in the pathology of lens, cornea and retina and (h) morphology and structure of trabecular meshwork in normal glaucomatous eyes. Application received by Commissioner of Customs: May 13, 1985.

Docket No. 85-189. Applicant: U.S. Department of Commerce, National Bureau of Standards, Gaithersburg, MD 20899. Instrument: Accessories for an Ion Microanalyzer. Manufacturer: Cameca, France. Intended use: The articles are accessories for an existing ion microanalyzer which is used for compositional profiling of electronic materials, particle searching and sorting and lateral compositional mapping. Application received by Commissioner of Customs: May 13, 1985.

Docket No. 85-190. Applicant: Montana State University, Department of Physics-CRISS Laboratory, Bozeman, MT 59717. Instrument: Monochromatized X-Ray Source, Model RMC-10 with Accessories. Manufacturer: Leybold-Heraeus, West Germany. Intended use: Studies of a broad variety of semiconductors, metals, catalysts. General basic research experiments in surface physics, chemistry and materials research will be conducted to obtain basic information on materials and surface properties which is to be published in open literature. Application received by Commissioner of Customs: May 13, 1985.

Docket No. 85-191. Applicant: Montana State University, Department of Physics-CRISS Laboratory, Bozeman, MT 59717. Instrument: Electron Loss Spectrometer, Model ELS-22 with Accessories. Manufacturer: Leybold-Heraeus, West Germany. Intended use: Studies of a broad variety of semiconductors, metals, catalysts. General basic research experiments in surface physics, chemistry and materials research will be conducted to obtain basic information on materials and surface properties which is to be published in open literature. Application received by Commissioner of Customs: May 14, 1985.

Docket No. 85-192. Applicant: Yale University, Receiving, Traffic and Stores, 20 Ashmun Street, New Haven, CT 06520. Instrument: Fourier Transform Spectrometer, Model IZMO5 with Accessories. Manufacturer: Bomem, Canada. Intended use: The instrument will be used for research on the dynamics of catalytic and thermal combustion processes. The analyses will be accomplished by obtaining the infrared emission spectra of vibrationally hot gas phase species. Application received by Commissioner of Customs: May 14, 1985.

Docket No. 85-194. Applicant: Baylor College of Medicine, One Baylor Plaza, Houston, TX 77030. Instrument: Recording Circular Dichroism Spectropolarimeter, Model J-500A and Accessories. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use: Studies of naturally-occurring protein and synthetic polypeptides which will include the following:

(1) Effect of carbohydrate on the structure of lipid binding glycoproteins in human plasma.

(2) Structure-function relationships of phospholipase A_2 and phospholipid transfer proteins.

(3) Circular dichroic studies of the kinetics of lipid-protein association.

(4) Effects of mutations on the process and products of protein folding reactions.

(5) The influence of secondary structure on the binding of neuropeptide Y to brain tissue.

(6) Spectroscopic studies of the structure and conformation of human apolipoprotein A-IV: Correlation with lipid affinity.

Application received by Commissioner of Customs: May 16, 1985.

Docket No. 85-195. Applicant: University of Miami, Rosenstiel School of Marine & Atmospheric Sciences, 4600 Rickenbacker Causeway, Miami, FL 33149. Instrument: Isotope Ratio Mass Spectrometer, Model MAT 251. Manufacturer: Finnigan-MAT, West Germany. Intended use: The instrument will be used to measure the stable isotopes of hydrogen, nitrogen, oxygen, carbon and sulfur as applied to various geochemistry sciences. Specific interest concerns the application of stable isotope geochemistry to the study of the transformation of carbonate sediments into hard lithified materials. In addition the instrument will be used in the training of students at the M.Sc. and Ph.D. level in the necessary analytical techniques in the courses Sedimentary Geochemistry, Light Isotope Geochemistry and Paleooceanography. Application received by Commissioner of Customs: May 16, 1985.

Docket No. 85-196. Applicant: University of New Mexico, Geology Department, Albuquerque, NM 87131. Instrument: Mass Spectrometer, Model #354 with Accessories. Manufacturer: VG Instruments, United Kingdom. Intended use: Investigation of samarium-neodymium, rubidium-strontium, and barium isotopic systematics of earth materials. Teching tool for Geology 504. Geochronology in which students will work with technical staff to learn how to use the instrument, then to conduct their own MS or Ph.D. research. Application received by Commissioner of Customs: May 16, 1985.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 85-15293 Filed 6-25-85; 8:45 am]

BILLING CODE 3510-DS-M

Computer Systems Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Systems Technical Advisory Committee will be held July 15, 1985, 9:30 a.m., The Federal Building, Room 2007, 450 Golden Gate Avenue, San Francisco, CA. The Committee will continue July 16, in the Gold Room of the Federal Building at 3:30 p.m. The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to computer systems or technology.

Agenda

July 15, 1985—Open CSTAC Meeting—9:30 a.m.—5:30 p.m.

Presentation of papers or comments by the public regarding controls for computers, software, and technology therefore. Remarks are solicited from individuals, companies, representatives, or industry association representatives concerning recommended changes to the current computer related controls or restructuring (simplification) of the control. Recommendations concerning technical content or control philosophy are desired rather than format changes. Suggested topics of comment are the following:

(1) Improvements to the descriptions of hardware, software, or technology.

(2) Improvements to the categorizing of hardware, software, or technology.

(3) Availability (and competition) for products/technology from sources not subject to U.S. reexport laws.

(4) Changes in the control parameters.

(5) Changes in the control levels.

Additional comments will be solicited in the Washington, D.C. area on September 9, 1985 at a time and place to be announced in a later **Federal Register**. CSTAC will work with the Industry Coalition on Technology Transfer to summarize inputs from public comments for presentation to the Director of the Office of Export Administration by December 1, 1985. Recommendations will be used for COCOM discussions scheduled for the fall of 1986. In providing comments, presenters should be aware that the U.S. is currently developing proposals for controls which will be discussed throughout 1986 and 1987 for implementation in 1990. Comments therefore should consider present need for clarification and future trends.

July 16, 1985—General Session—3:30 p.m.

1. Opening remarks by the Chairman.

2. Presentation of papers or comments by the public.

3. Report on current work program of the subcommittees:

a. Foreign Availability,

b. Licensing Procedures.

c. Software, and

d. Hardware.

4. New Business.

5. Action items underway.

6. Action items due at next meeting.

Executive Session:

7. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 6, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202-377-4217. For further information or copies of the minutes call 202-377-2583.

Dated: June 21, 1985.

Margaret A. Cornejo,

Acting Director, Technical Programs Staff, Office of Export Administration.

[FR Doc. 85-15369 Filed 6-25-85; 8:45 am]

BILLING CODE 3510-DT-M

Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee; Opening Meeting

A meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held July 16, 1985, 1:30 p.m., The Federal Building, the Gold Room, 450 Golden Gate Avenue, San Francisco, CA. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

Agenda

1. Introduction of members and guests

2. Opening remarks by the Chairman.
3. Presentation of papers or comments by the public.
4. Status of the Foregin Availability Assessment Division.
5. Discussion of the new foreign availability regulations.
6. Discussion of TAC foreign availability submission process.
7. Old business.
8. New Business.
9. Action items underway.
10. Action items due at next meeting.

The meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

For further information or copies of the minutes call 202–377–2583.

Dated: June 21, 1985.

Margaret A. Cornejo,

Acting Director, Technical Programs Staff, Office of Export Administration.

[FR Doc. 85–15370 Filed 6–25–85; 8:45 am]

BILLING CODE 3510-DT-M

Software Subcommittee of the Computer Systems Technical Advisory Committee; Partially Closed Meeting

A meeting of the Software Subcommittee of the Computer Systems Technical Advisory Committee will be held in open session, July 16, 1985, 9:30 a.m.—the Federal Building, the Gold Room, 450 Golden Gate Avenue, San Francisco, CA. The Subcommittee will continue in a partially closed session July 17, 9:30–12:00 noon, Room 13029, The Federal Building. The Software Subcommittee was formed to study computer software with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

July 16—*General Session:*

1. Introduction of members and guests.
2. Opening remarks by the Chairman.
3. Presentation of papers or comments by the public.
4. Brief summary of Los Alamos meeting.
5. Discussion of software areas:
a. Software development systems;
b. Cross compilers;
c. Network software;
d. Expert systems and artificial intelligence;
e. Other topics including results of action items assigned at Los Alamos and new assignments.
6. Discussion of software control under 15 CFR Part 379 to allow uniform treatment of all software.
7. Continued development of work plan.

July 17—*General Session:*

8. Continuation of topics from previous day.
9. Action items underway.
10. Action items due at next meetings.

Executive Session:

11. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formerly determined on February 6, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meeting and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202–377–4217. For further information or copies of the minutes contact: Margaret A. Cornejo, 202–377–2583.

Dated: June 21, 1985.

Margaret Cornejo.

Acting Director, Technical Programs Staff Office of Export Administration.

[FR Doc. 85–15371 Filed 6–25–85; 8:45 am]

BILLING CODE 3510-DT-M

[C-351-020]

Non-Rubber Footwear From Brazil; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on non-rubber footwear from Brazil. The review covers the period January 1, 1981, through October 28, 1981, and ten programs.

As a result of the review, the Department has preliminarily determined the aggregate net subsidy for the period to be 5.89 percent *ad valorem*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: June 26, 1985.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Peggy Clarke, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On April 19, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 15597) the final results of its last administrative review of the countervailing duty order on non-rubber footwear from Brazil (39 FR 32903, September 12, 1974) and announced its intent to conduct the next review. As required by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that review.

On June 2, 1983, the International Trade Administration ("the ITC") published its determination that an industry in the United States would not be materially injured, or threatened with material injury, by reason of imports of Brazilian non-rubber footwear if the order were revoked (48 FR 24796). Consequently, the Department published in the **Federal Register** (48 FR 28310, June 21, 1983) a revocation of the order with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after October 29, 1981, the date of the ITC's notification to the Department of the request by the Brazilian government for such an injury determination.

Scope of the Review

Imports covered by the review are shipments of Brazilian non-rubber footwear currently classifiable under Part 1A, Schedule 7 of the Tariff Schedules of the United States Annotated, excluding items 700.5100 through 700.5400, 700.5700 through 700.7100, and 700.9000.

The review covers the period January 1, 1981, through October 28, 1981, and ten programs: (1) Preferential financing for exports through CACEX; (2) an income tax exemption for export earnings; (3) preferential financing under CIC-CREGE 14–11; (4) BEFIEX; (5) CIEX; (6) incentives for trading companies (Resolution 643); (7) the export credit premium for the IPI; (8) preferential financing for the storage of merchandise destined for export (Resolution 330); (9) FINEX; and (10) Gold Draft of Exportation.

Analysis of Programs

(1) Preferential Financing for Exports Through CACEX

Under this program, the Department of Foreign Commerce of the Banco do Brasil ("CACEX") declares companies eligible to receive working capital loans at preferential rates. These loans have a duration of up to one year. During the period of review, each firm producing non-rubber footwear could obtain preferential financing for up to 40 percent of the value of its previous year's exports.

During the period of review, companies had loans outstanding under Resolution 641 (effective October 22, 1980) and Resolution 674 (effective January 22, 1981) of the Banco Central do Brasil. We determine that the benefit from these loans occurs when the cash flow effect occurs. That effect occurred when the borrower made the preferential interest payments. Under Resolution 641, the interest was deducted in advance. Resolution 674 required two interest payments, one 180 days after the loan was granted and the other at the maturity of the loan.

To calculate the subsidy for Resolution 641 loans, for each loan granted during the review period, we divided the number of days each loan was outstanding by 365 days and multiplied that ratio by the interest differential. Then we multiplied the result by the full loan principal for each loan. For Resolution 674 loans, we calculated the subsidy for loans with interest payments that fell due within the period of review by dividing the number of days of each interest period by 365 days. We then multiplied the result by the interest differential and then multiplied that ratio by the full loan principal.

To find the interest differential for our calculations, we compared two effective rates. For our benchmark, we took the national average rate for thirty-day discounts of accounts receivable as reported in *Analise/Business Trends*. (This rate includes the tax on financial transactions, from which loans for the preferential financing were exempt.) We then compounded this rate to find the effective annual commercial benchmark. The resulting commercial benchmark for these loans was 91.64 percent. The effective preferential rate was 28.71 percent for Resolution 641 loans. For Resolution 674 loans, the rates ranged from 23.55 percent to 44 percent. We preliminarily determine the benefit from this program to be 1.98 percent *ad valorem*.

(2) Income Tax Exemption for Export Earnings

Exporters on non-rubber footwear are eligible under this program for an exemption for income tax of the percentage of profit attributable to export revenue. The Brazilian government calculates the tax-exempt fraction of profit as the ratio of export revenue to total revenue. The benefit equals the product of the amount of tax-exempt profit times the prevailing 35 percent corporate income tax rate. We preliminarily determine the benefit from this program to be 1.77 percent *ad valorem*.

(3) Preferential Export Financing Under CIC-CREGE 14–11

CIC-CREGE 14–11 is a progam operated by the Banco do Brasil that provides preferential financing to exporters, who are then required to maintain a minimum fixed level of foreign exchange with the Banco do Brasil. Exporters of non-rubber footwear participated in this program during the period of review.

There is no maximum interest rate for this program and interest payments by the exporters are normally made quarterly with the full principal to be repaid at the end of the loan term. The preferential interest rates ranged from 24 percent to 55 percent for loans with interest payments in the period of review. We calculated the benefit in a manner similar to that used for Resolution 674 financing, based on the interest payment date of such loans. We preliminarily determine the benefit conferred by this program to be 0.55 percent *ad valorem*.

(4) BEFIEX

Decree Law No. 77,065 of January 20, 1976, authorizes the Commission for Granting of Fiscal Benefits to Special Export Programs ("BEFIEX") to provide a reduction of up to 90 percent of the import duty and the Industrial Product Tax ("IPI") on equipment, machinery, apparatus, instruments, accessories, and tools imported by a company that makes minimum export commitments. One footwear exporter received benefits under this program in 1981. Dividing the benefits by total exports onf non-rubber footwear in 1981, we preliminarily determine an *ad valorem* benefit of 0.04 percent from this program.

(5) CIEX

Decree Law No. 1428 of December 2, 1975, authorizes the Commission for Export Incentives ("CIEX") to provide a reduction of up to 90 percent of the import duty and IPI tax on equipment, machinery, apparatus, instruments, accessories, and tools imported by a company that makes minimum export commitments. This program serves the same purpose as the BEFIEX program, but is aimed at small companies with low production and trade volumes. One footwear exporter received benefits under this program in 1981. Dividing these benefits by total exports of non-rubber footwear in 1981, we preliminarily determine an *ad valorem* benefit of 0.05 percent from this program.

(6) Incentives for Trading Companies (Resolution 643)

Under this program, CACEX declares trading companies eligible to receive loans at preferential rates. Eligible firms have access to a line of credit which can be drawn down to purchase goods for export. The trading companies use the loan principal as advance payment for the goods purchased. These loans are subject to the same interest constraints as Resolution 674 loans. Normally, the term of the loan is not to exceed 180 days but the actual length varies, running from the date of receipt of the loan to the date of shipment of the goods. The interest is paid in full at the end of the loan term.

During the period of review, one firm received benefits under this program for the purchase of non-rubber footwear for export. However, we did not receive the full information we requested on these loans, in particular, amounts, dates of receipt, and interest payments. Therefore, using the best information available we calculated the benefit by multiplying the estimated loan amount by the estimated preferential interest rate differential. We estimated the loan amount to be the amount of exports that the footwear exporter shipped through the trading company. For the interest rate differential, we used the weighted average differential for 1981 loans under both Resolutions 641 and 674 (55.45 percent).

Using the same calculation method as for Resolution 674 loans, we preliminarily determine the *ad valorem*

benefit under this program to be 0.04 percent.

(7) The Export Credit Premium for the IPI

Exporters of non-rubber footwear are eligible for the maximum IPI export credit premium. The Brazilian government reimburses in cash a percentage of the f.o.b. invoice price of the exported merchandise to exporters through the bank involved in the export transaction.

The Brazilian government eliminated the IPI export credit premium on December 7, 1979 but reinstated it on April 1, 1981. Effective May 4, 1981, the Brazilian government imposed an export tax to offset the benefit of the premium on exports to the United States. However, we found that no firms paid this tax before December 1982 at which time they paid it without interest or penalties.

We consider the lag in collection to be a benefit to the exporters equal to an interest free loan in the amount of the tax owed, rolled over monthly until the tax was actually paid. Under current practice, the offset tax is to be paid 45 days after the end of the month in which the shipment earning the premium occurred. To calculate the benefit, we considered the interest free loan to begin on the date the tax was due (*i.e.*, 45 days after the end of the month of shipment).

As a commercial benchmark, we used the compounded monthly discount rate (described for the Resolution 674 program). Using this, we preliminarily determine the *ad valorem* benefit to be 1.46 percent.

(8) Other Programs

We also examined the following programs and preliminary find that exporters of non-rubber footwear did not use them during the period of review.

a. Preferential Financing for the Storage of Merchandise Destined for Export (Resolution 330)

b. Preferential Export Financing under Resolution 68 ("FINEX");

c. Gold Draft of Exploration.

Preliminary Results of the Review

As a result of our review, we preliminarily determine the aggregate net subsidy to be 5.89 percent *ad valorem* for the period of review. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 5.89 percent of the f.o.b. invoice price on any shipments exported on or after January 1, 1981, and entered, or withdrawn from warehouse, for consumption on or before October 28, 1981.

As mentioned earlier, as a result of the ITC's negative injury determination, the Department revoked this order (48 FR 24796, June 21, 1983) with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after October 29, 1981.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days after the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: June 20, 1985.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 85-15346 Filed 6-25-85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Federazione Nazionale delle Impresse di Pesca, Modification to General Permit

Notice is hereby given that pursuant to the provisions of § 216.24(b)(4) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216, the General Permit to take marine mammals incidental to commercial fishing operations issued to the Federazione Nazionale delle Impresse di Pesca, Rome Italy, on February 21, 1985 in Category 1: Towed or Dragged Gear, is modified to include the taking of an additional twenty five cetaceans.

Accordingly Section 2.b. is deleted and replaced by:

"2.b. Not more than 5 harbor seals and 35 cetaceans may be killed or seriously injured annually under this Permit."

This modification became effective on June 20, 1985.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator, National Marine Fisheries Service, 3300 Whitehaven Street NW. Washington, D.C. 20235; and

Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930-3799.

Dated: June 20, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-15361 Filed 6-25-85; 8:45 am]

BILLING CODE 3510-22-M

Scan Ocean, Inc.; Modification to General Permit

Notice is hereby given that pursuant to the provisions of § 216.24(b)(4) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the General Permit to incidentally take marine mammals during commerical fishing operations issued to Scan Ocean, Inc., Gloucester, Massachusetts, on February 1, 1985, in Category 1: Towed or Dragged Gear, is modified to include the additional taking of twenty cetaceans. Accordingly Section 2 is deleted and replaced by:

"2.b. Not more than 5 harbor seals or 35 cetaceans may be killed or seriously injured annually under this Permit."

This modification is effective on June 21, 1985.

The Permit and documents pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street NW., Federal Building, Gloucester, Massachusetts 01930.

Dated: June 21, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 85-15362 Filed 6-25-85; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development.

Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Federal Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Office of Federal Patent Licensing, National Technical Information Service; U.S. Department of Commerce.

Department of Agriculture

SN 6-407,232 (4,505,277)
Implantation Device for Use in Vivo Stimulation and Collection of Monocytes from Perotineum of Vertebrate

SN 6-475,784 (4,503,082)
Method for Reducing Sodium Content and Simultaneously Increasing Potassium Content of a Food

SN 6-696,566
Multi-Product Wood Processor

Department of Commerce

SN 6-732,327
Hardware Interpreter for Finite State Automata

Department of Health and Human Services

SN 6-386,991 (4,511,556)
Inactivation of a Lipid Virus

SN 6-468,776 (4,502,475)
Drill Guide for Bone Plate Fixation

SN 6-675,617
Improved Polyethylene Glycol (PEG) Reagent

SN 6-705,709
Antiinflammatory 2,3-Didemethylcolchicine and Derivatives

SN 6-715,332
Rapid Bioassay and a Kit for Peptide Hormones

SN 6-717,625
Functionalized Congeners of Adenosine Receptor Agonists

SN 6-717,692
Human SCLC Autocrine Growth Factors and Monoclonal Antibody Blocking the Same

Department of the Air Force

SN 6-832,070 (4,506,269)
Laminated Thermoplastic Radome

SN 6-418,113 (4,438,006)
Perfluorinated Aliphatic Polyalkylether Lubricant with an Additive Composed of an Aromatic Phosphine Substituted with Perfluoroalkylether Groups

SN 6-539,603 (4504,329)
Process for the Epitaxial Deposition of III-V Compounds Utilizing a Binary Alloy as the Metallic Source

SN 6-664,197
Energizing Arrangement for Charge Coupled Device Control Electrodes

SN 6-689,115
Apparatus for Non-Destructive Inspection of Blind Holes

SN 6-698,720
Variable Cycle Engine for High Altitude Aircraft

SN 6-711,936
Plasma Spray Screen Repair Method

SN 6-713,666
Light-Weight Oxygen Delivery Hood Assembly for Hyperbaric Chamber

SN 6-716,729
Dielectric Resonator Oscillators with Digital Temperature Compensation

SN 6-720,936
Very High Speed Lap with Negative Lift Effect

SN 6-720,937
Very High Speed Lap with Positive Lift Effect

SN 6-721,833
Optically Pumped Laser System Having Extracavity Pulse Smoother

SN 6-721,834
Dielectric Resonator Stabilized Microstrip Oscillator

SN 6-721,968
Method of Measuring Spherical Aberration and Apparatus Therefor

Department of the Army

SN 6-361,655 (4,388,146)
Analog Correction of Quartz Resonator of Angle Cut

SN 6-361,657 (4,389,275)
Quartz Resonator Angle Correction

SN 6-386,828 (4,489,392)
Orthogonalizer for Inphase and Quadrature Digital Data

SN 6-732,120
Microwave Bandstop Filter

SN 6-733,836
Integrated Dual Beam Line Scanning Antenna and Negative Resistance Diode Oscillator

Environmental Protection Agency

SN 6-422,941 (4,507,762)
Method and Apparatus for Generating Monopulse Ultrasonic Signals

[FR Doc. 85-15303 Filed 6-25-85; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Import Limits for Certain Apparel Products Produced or Manufactured in the Republic of the Philippines

June 21, 1985.*

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on June 27, 1985. For further information contact Jane Corwin, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

A CITA directive dated December 21, 1984 (49 FR 50231) established limits for certain categories of cotton, wool, and man-made fiber textile products, including Categories 336T and 635T, produced or manufactured in the Philippines and exported during the agreement year which began on January 1, 1985. Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by the exchange of notes dated November 24, 1982, as amended, between the Governments of the United States and the Republic of the Philippines, and at the request of the Government of the Republic of the Philippines, the 1985 limit for Category 635T is being increased from 39,845 dozen to 44,626 dozen by the application of swing and carryforward. To the extent the carryforward is used in 1985, it will be deducted from the 1986 limit for Category 635T. The limit for Category 336T, is being reduced from 442,847 dozen to 420,304 dozen to account for the swing applied to Category 635T, as provided in the bilateral agreement.

A described of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff

Schedules of the United States Annotated (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

June 21, 1985.

Committee for the Implementation of Textile agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 21, 1984 from the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United Staters of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines and exported during 1985.[1]

Effective on June 27, 1985, Paragraph 1 of the directive of December 21, 1984 is hereby amended to include adjusted restraint limits for the following categories:

Category	Adjusted 12-mo restraint limit (dozen)[1]
336T	420,304
635T	44,626

[1] The limits have not been adjusted to reflect any imports exported after December 31, 1984.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-15347 Filed 6-25-85; 8:45 am]

BILLING CODE 3510-DR-M

Amending the Import Restraint Limits for Certain Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Philippines

June 21, 1985

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on June 27, 1985. For further information contact Jane Corwin, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

The Governments of the United States and the Republic of the Philippines have agreed to further amend their Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 24, 1982, as amended, to increase the specific limits established for wool gloves in Category 431 to 150,000 dozen pairs and for man-made fiber sweaters in Category 645/646 to 114,516 dozen for goods produced or manufactured in the Philippines and exported during 1985. The 1985 limit for wholly non-continuous, non-cellulosic yarns of man-made fibers in Category 604 is being reduced from 2,356,939 pounds to 2,156,939 pounds.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

June 21, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 21, 1984 which directed you to prohibit entry into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines, in excess of designated restraint limits. Effective on June 27, 1985, the directive of December 21, 1984 is hereby amended to adjust the following restraint limits:

Category	Adjusted 12-mo restraint limit[1]
431	150,000 dozen pairs.
604	2,156,939 pounds.
645/646	114,516 dozen.

[1] The restraint limits have not been adjusted to reflect any imports exported after December 31, 1984.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-15348 Filed 6-25-85; 8:45 am]

BILLING CODE 3510-DR-M

Limits for Certain Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

June 24, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on June 26, and 27, 1985. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On July 2, 1984, a notice was published in the **Federal Register** (49 FR 17192), which established import restraint limits for polyester/rayon lightweight fabrics in Category 613 pt. currently in T.S.U.S.A. numbers 338.5039, 338.5042, 338.5043, 338.5047, 338.5048, 338.5053, 338.5054, 338.5058, and 338.5059) and man-made fiber brassieres in Category 649, produced or manufactured in China and exported during the twelve-month periods which began, in the case of Category 613 pt., on June 26, 1984, and extends through June 25, 1985; and, in the case of Category 649, which began on June 27, 1984 and extends through June 26, 1985. These limits are filled.

On December 24, 1984 a further notice was published in the **Federal Register** (49 FR 49879) announcing that, as of January 1, 1985, the Committee for the Implementation of Textile Agreements, in order to prevent market disruption, would direct the U.S. Customs Service, as appropriate, to permit entry into the United States for consumption, or withdrawal from warehouse for consumption, of such goods which were exported during a prior restraint period in excess of the restraint limit established for that period at a prescribed rate per month during each of the first five months of the following period. CITA has decided, in the case of imports in Categories 613 pt. and 649, exported from China on and after June 26, and June 27, 1984, respectively, to direct Customs to permit entry in amounts not to exceed 4,841,000 square

[1] The agreement provides, in part, that: (1) specific limits maybe exceeded during the agreement year by designated percentages; (2) specific limits may be adjusted for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

yards (Cat. 613 pt.) and 120,640 dozen (Cat. 649) during each of the thirty-day periods stipulated in the letter to the Commissioner of Customs which follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff schedules of the United States Annotated (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

June 24, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed, effective on June 26, 1985 (Cat. 613pt.[1]) and June 27, 1985 (Cat. 649), to permit entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Categories 613pt.[1] and 649, produced or manufactured in the People's Republic of China and exported during the twelve-month periods which began on June 26, 1984 and extends through June 25, 1985 and June 27, 1984 and extends through June 26, 1985, respectively, which were in excess of the limits established for those periods, in the following amounts per category in each thirty-day period:

Category	Amount to be entered	30-day periods
613pt.[1]	4,641,000	June 26, 1985 to July 25, 1985; July 26, 1985 to August 24, 1985; August 25, 1985 to Sept. 23, 1985; Sept. 24, 1985 to Oct. 23, 1985; Oct. 24, 1985 to Nov. 22, 1985.

[1] In Category 613, only T.S.U.S.A. numbers 338.5039, 338.5042, 338.5043, 338.5047, 338.5048, 338.5053, 338.5054, 338.5058, and 338.5059.

Category	Amount to be entered	30-day periods
649	120,640 dozen	June 27, 1985 to July 26, 1985; July 27, 1985 to August 25, 1985; August 26, 1985 to Sept. 24, 1985; Sept. 25, 1985 to Oct. 24, 1985; Oct. 25, 1985 to Nov. 23, 1985.

[1] In Category 613, only T.S.U.S.A. numbers 338.5039, 338.5042, 338.5043, 338.5047, 338.5048, 338.5053, 338.5054, 338.5058, and 338.5059.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on December 13, 1982 (47 F.R. 55709), as amended on April 7, 1983 (48 F.R. 15175), May 3, 1983 (48 F.R. 19924), December 14, 1983 (48 F.R. 55607), December 30, 1983 (48 F.R. 57584), April 4, 1984 (49 F.R. 13397), June 28, 1984 (49 F.R. 26622), July 16, 1984 (49 F.R. 28754), November 9, 1984 (49 F.R. 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-15417 Filed 6-25-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Air Force Activities for Potential Conversion to Contract

The Air Force recently announced additional activities for potential conversion to contract. Seven activities are to undergo a cost comparison to determine whether in-house or contract operation is more economical: Aircraft Maintenance (T-33) at Castle AFB, CA; Administrative Switchboard at Maxwell AFB, AL; Base Supply at the Air Force Academy, CO; Child Care Center at Bergstrom AFB, TX; Computer Operations at Peterson AFB, CO; Precision Measurement Equipment Laboratory at Maxwell AFB, AL; Vehicle Operations and Maintenance at Peterson AFB, CO. In addition, five activities were announced for direct conversion to contract. Since these activities involve ten or fewer civilian employees, a cost comparison is not required per Pub. L. 96-342, as amended. However, based on local evaluations, contracting is expected to be cost effective in each case. These activities are Aircraft Maintenance (T-33) at Griffis AFB, NY; Minot AFB, ND; Langley AFB, VA; Tyndall AFB, FL; and McChord AFB, WA.

For further information contact: Major Mel Martocchia, Telephone (202) 697-4935.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 85-15304 Filed 6-25-85; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Cities Service NGL Pipeline Co; Oil Pipeline Tentative Valuation

June 21, 1985

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative basic valuation is under consideration for the common carrier by pipeline listed below:

1983 Basic Report

Valuation Docket No. PV-1486-000
Cities Service NGL Pipeline Company, P.O. Box 300, Tulsa, Oklahoma 74102.

On or before July 30, 1985, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the individual company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in section 19a(h) of the Act need not file a petition; they

are entitled to file a protest as a matter of right under the statue.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 85-15275 Filed 6-25-85; 8:45 am]

BILLING CODE 6717-01-M

G&T Pipeline Co; Oil Pipeline Tentative Valuation

June 21, 1985

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative valuation is under consideration for the common carrier by pipeline listed below:

1983 Annual Report

Valuation Docket No. PV—1478-000

G&T Pipeline Company P.O. Box 2511, Houston, Texas 77001.

On or before July 30, 1985, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under Section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the individual company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 85-15274 Filed 6-25-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP85-545-000 et al.]

Black Marlin Pipeline Co. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Black Marlin Pipeline Company

[Docket No. CP85-545-000]

June 19, 1985.

Take notice that on May 28, 1985, Black Marlin Pipeline Company (Black Marlin), 1200 Travis Street, Houston, Texas 77002, filed in Docket No. CP85-545-000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations for a certificate of public convenience and necessity for blanket authorization to transport natural gas for other interstate pipeline companies, all as more fully set forth in the application which is one file with the Commission and open to public inspection.

Black Marlin seeks the issuance of a certificate of public convenience and necessity for blanket authorization to perform jurisdictional transportation of natural gas for interstate pipelines pursuant to § 284.221 of the Commission's Regulations. Absent the issuance of the requested certificate, said transportation would require separate certificate and abandonment authority in each instance. Black Marlin states that under the blanket authorization, Black Marlin would provide transportation services on a self-implementing basis without further authorization and that issuance of the blanket certificate would facilitate transportation, and be in the public interest.

Black Marlin requests blanket authorization to transport gas for other interstate pipeline companies for periods of up to two years. It states it would comply with § 284.221(d) of the Commission's Regulations.

Comment date: July 10, 1985, in accordance with Standard Paragraph F at the end of this notice.

2. Williston Basin Interstate Pipeline Company

[Docket No. CP85-534-000]

June 21, 1985.

Take notice that on May 22, 1985, Williston Basin Interstate Pipeline Company (Williston), 304 East Rosser Avenue, Suite 200, Bismarck, North Dakota 58501, filed Docket No. CP85-534-000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued operation of certain jurisdictional natural gas facilities and the continued transportation of natural gas in interstate commerce and for permission and approval to abandon certain transmission laterals and two gas storage wells. Additionally, Williston requests a disclaimer of jurisdiction over certain facilities. The proposals are more fully set forth in the application which is on file with the Commission and open to public inspection.

Williston states that it has recently concluded a thorough review of its transportation, exchange, and storage operations in order to ascertain whether any additional certificate authorization is required in these areas. It is asserted that the review demonstrated that some of Williston's jurisdictional operations are not in compliance with all applicable federal regulatory requirements. Williston states that it discovered that its predecesor and parent company, Montana-Dakota Utilities Co., had added and deleted compressor facilities, jurisdictional facilities related to its storage operations, and town border facilities without the requisite certificate authority. Williston states that it also discovered that, because of operational and regulatory changes, several previously nonjurisdictional transportation and exchange arrangements have now become jurisdictional. Finally, it is explained that the results of the review indicate that Williston is operating field tap facilities for the delivery of direct sale gas and providing some jurisdictional transportation services without the requisite certificate authority. Therefore Williston requestes the following:

(1) Certificate and abandonment authorization for 17 compressor units at 11 stations that have been installed or removed without authorization.

(2) Certificate authorization or a disclaimer of jurisdiction for 12 compressor units at seven of the 11 compressor stations with uncertain jurisdictional status.

(3) Certificate and abandonment authorization for facilities to permit storage operations including digging, deepening and plugging wells, and construction of metering facilities.

(4) Certificate authorization for the installation of five sales taps and the relocation of six sales taps, referred to as town border stations, and authorization for the abandonment of the sections of transmission laterals that were changed to a distribution function as a result of the relocation of the border stations.

(5) Certificate authorization of six former non-jurisdictional field exchange arrangements wherein redeliveries of exchange gas to producers through jurisdictional facilities are made to balance deliveries to Williston.

(6) Certificate authorization for construction and operation of four field taps that have been constructed and are

in operation to make deliveries under the T-3 transportation service approved in Docket No. CP83-335-000.

(7) Certificate authorization for interstate transportation of gas by Williston for K N Energy, Inc. (K N), which evolved from a former nonjurisdictional field exchange via gathering facilities with K N and authorization for transportation of gas by Williston for K N of less then an average of 30 Mcf of gas per day which MDU failed to file for through administrative oversight.

Comment date: July 12, 1985, in accordance with Standard Paragraph F at the end of this notice.

3. United Gas Pipe Line Company

[Docket No. CP85-557-000]

June 19, 1985.

Take notice that on May 31, 1985, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP85-557-000 an application pursuant to section 7 of the Natural Gas Act for permission to abandon partially its natural gas service to Louisiana Gas Service Company (LGS), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United requests authorization (1) to reduce LGS' maximum daily quantity (MDQ) of gas for New Orleans area service to 120,000 Mcf day, (2) to change LGS' related minimum billing demand level to 120,000 Mcf, (3) to modify the curtailment plan to reflect LGS' reduced service, (4) to reduce LGS' grouped MDQ as set out on Tariff Sheet Nos. 6 and 11, and (5) to made a *pro rata* reduction of the daily quantity obligation at the affected New Orleans delivery points. The reduced service will replace the certificated service United is presently rendering LGS under the May 2, 1977, service agreement between the parties.

Comment date: July 10, 1985, in accordance with Standard Paragraph F at the end of this notice.

4. Transcontinental Gas Pile Line Corporation, Texas Eastern Transmission Corporation, Natural Gas Pipeline Company of America, ANR Pipeline Company, Gasdel Pipeline System Incorporated

[Docket No. CP83-381-004]

June 19, 1985.

Take notice that on June 3, 1985 Transcontiental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, Texas Eastern Transmission Corporation (TETCO), Post Office Box 2521, Houston, Texas 77252, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, ANR Pipeling Company, 500 Renaissance Center, Detroit, Michigan 48243, and Gasdel Pipeline System Incorporated (Gasdel), Post Office Box 570, Newark, New Jersey 07101, filed in Docket No. CP83-381-004 a joint petition to amend the order issued July 23, 1984, in Docket No. CP83-381-000, *et al.*, pursuant to section 7(c) of the Natural Gas Act so as to authorize a change in the ownership of certain pipeline facilities located offshore Texas, all as more-fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioners state that by order issued July 23, 1984, Petitioners were authorized to construct, install and operate in the High Island area, south addition, offshore Texas, (1) approximately 10.67 miles of 20-inch pipeline extending from a connection with the 30-inch west leg of High Island Offshore System (HIOS) in Block A-539 to production platform A of Marathon Oil Company in Block A-568, (2) approximately 2.02 miles of 12-inch pipeline extending from an underwater connection with the above 20-inch line in Block A-552 to a production platform of Mesa Petroleum Company in Block A-567, (3) approximately 0.96 mile of 10-inch pipeline extending from an underwater connection with the above 20-inch line in Block A-552 to a production platform of Transco Exploration Company in that same Block A-552, and (4) a meter and regulatory station on each of the above production platforms. The total cost of the project was estimated to be $23,105,000. It is explained that individual ownership pecentages of Petitioners in the various segments of the facilities were based upon respective maximum daily volumes expected to be purchased and transported by them through such segments.

Petitioners state that TETCO has advised the other Petitioners that it would purchase Texas Eastern Exploration Company's fifty percent interest in High Island Block A-550, offshore Texas. It is indicated that TETCO and/or others intend to connect the gas reserves by constructing a line from the platform in High Island Block A-550 to an underwater connection with the above-described 20-inch pipeline that extends from the 30-inch west leg of HIOS in Block A-539 to Marathon's production platform A in Block A-568. Such connection would be 0.38 mile downstream of paltform A. It is averred that no additional pipeland facilities would be required to transport the additional quantities; however, TETCO has requested, and the other Petitioners have agreed, that the ownership of the line from the connection in Block A-568 to the connection with HIOS in Block A-539 be reallocated based on an additional 10,000 MMcf of capacity (assuming higher operating pressures) for TETCO to accommodate the Block A-550 volumes. The reallocated ownership percentages, it is explained, and costs for all the Petitioners are set forth in the amended Exhibit Z-1 to the petition to amend.

Comment date: July 10, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

5. Texas Gas Transmission Corporation

[Docket No. CP85-549-000]

June 19, 1985.

Take notice that on May 29, 1985 Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP85-549-000 a request pursuant ot § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Memphis Light, Gas and Water Division (Mmemphis), as Agent for QO Chemicals, Inc. (QO Chemicals), under the certificate issued in Docket No. CP82-407-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Gas proposes to transport beyond a primary term of 120 days up to 1.50 billion Btu of low-priority natural gas per day on an interruptible basis for Memphis/QO Chemicals for ultimate delivery to QO Chemicals at its Memphis, Tennessee, plant. It is estimated that 547.5 billion Btu of low-priority gas will be transported on an annual basis.

Texas Gas proposes to charge for its service the rate provided in its Rate Schedule TSC 1 for Rate Schedule G sales customers, which is currently 16.26 cents.

Texas Gas indicates that the proposed transportation by Texas Gas would be rendered through the use of existing facilities. Texas Gas also indicates that the gas would be used for boiler fuel in QO Chemicals' Memphis, Tennessee, plant. It is further indicated that QO Chemicals has purchased its gas supplies from TXG Gas Marketing Company, in a first sale, and such gas was not dedicate to interstate commerce on November 8, 1978.

Texas Gas also requests flexible authority to add or delete receipt/delivery points associated with the sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply, not to delivery points related to sources of gas supply, not to delivery points in the market area. Texas Gas will file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: August 5, 1985, in accordance with Standard Paragraph G at th end of this notice.

6. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP85-531-000]

June 21, 1985.

Take notice that on May 21, 1985, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP85-531-000 an application pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing a transportation service for Esperanza Gas Company (Esperanza), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Tennessee is currently transporting natural gas for Esperanza pursuant to the provisions of § 284.101 of the Commission's Regulations and section 311(a) of the Natural Gas Policy Act of 1978. It is also indicated that a report of this transaction has been filed by Tennessee in Docket No. ST85-89.

Pursuant to the provisions of the agreement, Tennessee states that it has agreed to endeavor to accept, receive, transport, and deliver up to 1,500 Mcf of natural gas per day for Esperanza from a point of receipt located in Grogan Field, Nachitoches Parish, Louisiana. It is stated that Tennessee would return equal volumes for Esperanza's account at either an interconnection with Columbia Gulf Transmission Company in Acadia Parish, Louisiana (Egan B), or the Shell Sheridan plant in Colorado County, Texas.

It is stated that in accordance with the agreement, Esperanza would pay Tennessee

(1) For volumes received from the producer for Esperanza's account and delivered to Egan B, a volume charge equal to the product of 11.14 cents multiplied by the total volume in Mcf of gas received by Tennessee during the month, less 1.2 percent of the volumes retained by Tennessee for fuel and uses.

(2) For volumes received from the producer for Esperanza's account and delivered to Sheridan plant, a volume charge equal to the product of 17.81 cents multiplied by the total volume in Mcf of gas received by Tennessee during the month, less 1.2 percent of the volumes retained by Tennessee for fuel and uses.

(3) A minimum monthly bill which shall consist of the greater of the hereinabove rates or a volume charge of 17.81 cents multiplied by the number of days in said month, multiplied by 66⅔ percent of the transportation quantity; provided, however, the transportation quantity would be reduced by the volumes, if any, tendered by Esperanza and not taken by Tennessee and would be reduced by the volumes retained for Tennessee's system fuel and uses.

It is stated that the proposed service would be beneficial to Esperanza in that it would provide Esperanza with a means of transporting an additional supply of natural gas without its having to construct and operate additional facilities duplicative to Tennessee's existing pipeline facilities which are accessible.

Comment date: July 12, 1985, in accordance with Standard Paragraph F at the end of this notice.

7. Northern Natural Gas Company, Division of InterNorth, Inc.

Docket No. CP85-540-000]

June 19, 1985.

Take notice that on May 24, 1985, Northern Natual Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP85-540-000 a request pursuant to § 157.205(b) of the Commission Regulations under the Natural Gas Act (18 CFR 157.205(b)) for authorization to construct and operate one small volume measurement station to accommodate natural gas deliveries to Eleva-Strum High School in Trempealeau County, Wisconsin, under the certificate issued in Docket No. CP82-401 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request filed with the Commission and open to public inspection.

Eleva-Strum High School would be served through its existing distribution company, Midwest Natural Gas, Inc. (Midwest). The total cost of its proposed facility is estimated to be $2,862.

Northern requests authority to construct and operate one small volume measurement station that would supply Eleva-Strum High School, through Midwest, estimated peak day and annual deliveries of 53Mcf of gas and 7,340 Mcf, respectively, for space heating purposes in the fifth year of service. Northern states that the proposed delivery to Midwest would be within its currently authorized firm entitlements which were approved by Commissioner order on September 24, 1981, in Docket No. CP80-135. The rate schedule applicable to the proposed sale through the proposed facilities would be CD-1 for Rate Zone B, it is explained.

Northern further states that since the proposed volumes to be sold would be within Midwest's existing firm entitlement, the service rendered through the proposed facilities would have no impact on Northern's peak day and annual deliveries.

Comment date: August 5, 1985, in accordance with Standard Paragraph G at the end of this notice.

8. National Fuel and Gas Supply Corporation

[Docket No. CP85-608-000]

June 21, 1985.

Take notice that on June 11, 1985, National Fuel Gas Supply Corporation (National Fuel), Ten Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP85-608-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity, authorizing the continued transportation, for a term ending December 31, 1986 of up to 50,000 dt equivalent of natural gas per day on behalf of National Fuel Gas Distribution Corporation (Distribution) for 37 industrial and large commercial customers, which service has previously commenced pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), all as more fully set forth in Appendix hereto and in the application which is on file with the Commission and open to the public inspection.

The Appendix attached hereto provides details for each of the 37 industrial and commercial customers (27 of which are low priority users) of Distribution which desire the natural gas for the assurance of continued service through December 31, 1986, in order to plan their operations.

National Fuel states that it would receive the subject transportation volumes at existing receipt points on its system and would redeliver the volumes to Distribution at existing points of redelivery as reflected in applicable § 157.209 prior notice proceedings which

are identified in the attached Appendix. It is asserted that such service would be subject to the availability of capacity without depriving National Fuel's existing customers which are dependent on its general system supply.

National Fuel adds that it would charge Distribution pursuant to its Rate Schedule T-1 which provides for a rate of 26.72 cents per dt equivalent and 2 percent shrinkage. It is explained that revenues would be treated in accordance with the settlement agreement in Docket No. RP83-63-000, *et al.*

APPENDIX A.—NATURAL FUEL GAS SUPPLY CORPORATION END-USER TRANSPORTATION CUSTOMERS

Prior notice docket No.	End-user	Location	Proposed maximum transportation volume (Mcf/day)
CP84-204-000	Airco Carbon, Division of BOC, Inc.	Niagra Falls, New York	2,500
CP84-85-000	do	St. Mary's Pennsylvania	3,300
CP84-203-000	Altech Specialty Steel Corporation	Dunkirk, New York	2,300
[1]	Angelica Healthcare Service Group	Batavia, New York	250
CP84-202-000	Arcata Graphics Company	Depew, New York	1,325
[1]	Arco Metals Companys, American Brass	Buffalo, New York	3,000
CP84-165-000	Bethlehem Steel Corp.	Buffalo, New York	7,000
CP84-142-000	Booth Oil Company, Inc.	do	300
CP85-348-000	Chautaugua Hardware Corp.	Jamestown, New York	215
[1]	Darling & Company	Cheektowaga, New York	300
[1]	Erie Wastwater Treatment Plant	Erie, Pennsylvania	777
CP84-143-000	Ferro Corporation	Buffalo, New York	400
CP84-166-000	Great Lakes Carbon Corp.	Niagara Falls, New York	1,047
CP84-101-000	Goodyear Tire & Rubber Co.	do	1,500
CP84-305-000	Hopes Architectural Products, Inc.	Jamestown, New York	300
CP84-201-000	Jackson China, Inc.	Falls Creek, Pennsylvania	185
[1]	Kaufman's Bakery, Inc.	Buffalo, New York	280
CP84-269-000	Koppers Company, Inc.	Oil City, Pennsylvania	1,750
CP85-233-000	McInnes Steel Company	Corry, Pennsylvania	1,500
[1]	Morgan Services, Inc.	Buffalo, New York	167
CP84-35-000	National Forge Company	Irvine, Pennsylvania	1,333
[1]	O-AT-KA Milk Products Cooperative, Inc.	Batavia, New York	700
CP84-43-000	Occidental Chemical Corp.	Niagara Falls, New York	648
[1]	Pendrick Laundry, Inc.	Buffalo, New York	68
CP84-139-000	PPG Industries, Inc.	Meadville, Pennsylvania	7,000
[1]	Ralston Purina Company	Dunkirk, New York	333
CP84-304-000	Ramco Fitzsimons Steel Co.	Buffalo, New York	166
CP84-137-000	Roblin Industries, Inc.	Dunkirk, New York	2,000
[1]	Sorrento Cheese Co., Inc.	Buffalo, New York	760
CP84-48-000	Spaulding Fibre Co., Inc.	Tonawanda, New York	1,400
CP84-528-000	Special Metals Corp.	New Hartford, New York	640
CP84-164-000	TAM Ceramics, Inc.	Niagara Falls, New York	593
CP84-200-000	The Stackpole Corp.	St. Mary's, Pennsylvania	1,100
CP84-265-000	Trico Products Corp.	Buffalo, New York	1,131
CP84-163-000	Union Carbide Corp.	Niagara Falls, New York	1,833
CP84-534-000	Wheatland Tube Company	Wheatland, Pennsylvania	800
CP84-138-000	Witco Chemical Corp.	Bradford, Pennsylvania	1,500

[1] No application necessary. Section 157.209(a)(5)(i) provides for automatic authorization of transportation of natural gas on behalf of a high priority end-user for high priority uses for a team that does not exceed five years.

Comment date: July 12, 1985, in accordance with Standard Paragraph F at the end of this notice.

9. K N Energy, Inc.

[Docket No. CP85-607-000]

June 19, 1985.

Take notice that on June 11, 1985, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP85-607-000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities and for permission to abandon certain miscellaneous facilities, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

K N seeks authorization to:

(1) Abandon 3.0 miles of 4-inch pipeline between Buckboard Junction and the Schramm Tie-in in Colorado and replace with 8-inch pipeline;

(2) Abandon 12.6 miles of 6-inch pipeline between Cozad and Cambridge, Nebraska, and replace with 8-inch pipeline;

(3) Abandon 0.2 mile of 2-inch pipeline near Bertrand, Nebraska, and replace with 4-inch pipeline;

(4) Abandon 7.5 miles of 8-inch pipeline between Giltner and Aurora, Nebraska, and replace with 10-inch pipeline;

(5) Abandon 1.9 miles of 4-inch pipeline near Sutton, Nebraska, replace with 2-inch pipeline, and install an interconnect consisting of 0.2 mile of 6-inch pipeline south of Sutton;

(6) Relocate the interconnect of the Saronville, Nebraska, lateral from a 6-inch pipeline to a 10-inch pipeline;

(7) Abandon 2.1 miles of 4-inch pipeline near Clay Center, Nebraska, and replace with 2-inch pipeline;

(8) Abandon 31.8 miles of 5-inch pipeline between the Clay Center compressor station and the takeoff of the Hebron, Nebraska, lateral and replace with 6-inch pipeline;

(9) Abandon 1.4 miles of 4-inch pipeline near Franklin, Nebraska, and replace with 2-inch pipeline;

(10) Abandon 9.2 miles of 6-inch pipeline between Indianola and McCook, Nebraska, and replace with 4-inch pipeline.

K N states that the estimated total cost of these projects would be approximately $4.54 million and would be financed from current working capital or interim bank loans. K N further states that the miscellaneous facilities abandonment, construction and operation authorization sought herein are independent of one another and are needed in order to maintain reliable service, to alleviate potential safety problems, to remove localized capacity constraints, and to enhance operating flexibility and efficiency.

Comment date: July 10, 1985, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice, that pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing

if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-15336 Filed 6-25-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180679; PH-FRL-2853-8]

Nevada Department of Agriculture; Receipt of Application for Emergency Exemption To Use Fluvalinate; Soliciation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a request for an emergency exemption from the Nevada Department of Agriculture (hereafter referred to as "Applicant") to use the active ingredient fluvalinate as an insecticide on 9000 acres of alfalfa grown for seed throughout the state. It is the Agency's policy to solicit public comment on applications involving active ingredients which have not been previously registered for a food or feed use. Accordingly, EPA is soliciting comment before making a decision whether or not to grant the exemption.

DATE: Comments must be received on or before July 11, 1985.

ADDRESS: Three copies of written comments, bearing the identification notation "OPP-180679," should be submitted by mail to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information (CBI)." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for inspection in Rm. 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holdays.

FOR FURTHER INFORMATION CONTACT:

By mail: Jim Tompkins, Registration Division (TS-767C), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Office location and telephone number: Rm 716 B, Crystal Mall 2, 1921 Jeffeson Davis Highway, Arlington, VA (703-557-1192).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any provisions of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption to permit the use of the insecticide fluvalinate (CAS 69409-94-5) on alfalfa grown for seed in Nevada. Information in accordance with 40 CFR Part 166 was submitted as part of this request.

The Applicant claims that bee keepers in the state of Nevada require additional protection from bee kill due to the toxic effects of the currently registered pesticides used on crops requiring pollination. Beekeepers in Nevada are largely dependent on crops grown for agricultural purposes, primarily alfalfa, to provide the nectar and pollen necessary to produce honey. While alfalfa seed grown in the state of Nevada is primarily pollinated by wild bees, honeybees are often attracted to and forage in alfalfa seed fields. The alfalfa grown for seed is routinely treated with insecticide often resulting in a kill of the foraging bees. The Applicant claims while it is possible to remove honeybee colonies when pesticides are to be applied, it is not possible to remove wild pollinators which will be destroyed along with the target pests, and moving bee colonies away from fields receiving treatments is detrimental to their strength and is not good for the well being of the colony. The Applicant is requesting the use of fluvalinate because it will control damaging insects on alfalfa while at the same time having little effect on beneficial pollinators.

The primary insecticides used on alfalfa grown for seed are dimethoate, demeton, carbofuran, methyl parathion, and oxydemeton-methyl. The relative hazard of these insecticides to honeybees range from moderatly hazardous to hazardous. Another insecticide, the relatively bee-safe material, trichlorfon, has become ineffective against the major insect pests of alfalfa grown for seed.

Due to the potential hazard to bees, these products are not currently recommended for use during bloom. Alfalfa seed growers currently do not have an effective insecticide available which is relatively non-hazardous to bees, allowing use during bloom.

The Applicant proposes to use a maximum of four applications of the product SPUR 22EW (22.3 percent w/w fluvalinate emulsion in water), EPA Registration No.: 20954-127 manufactured by the Zoecon Corporation, after bloom at a maximum rate of 9.6 fl. oz./acre (0.15 lb. a.i.) to control Alfalfa weevils, leafhoppers, pea aphid, blue alfalfa aphid, alfalfa aphid, lygus bugs, spotted alfalfa aphid and suppression of two-spotted spider mites. A pre-harvest interval of 21-days is proposed. The use season is from June through August.

Spur 22EW is registered for use on nonbearing fruit trees, nut trees, vines and Brussel sprouts, cabbage, carrot, collard, kale, lettuce, onion, parsnip, radish, spinach, Swiss chard and tobacco grown for seed. Spur currently may not be used on crops where any part of the crop will be used for human or livestock consumption or applied to trees or vines which will be harvested within one year.

This notice does not constitute a decision by EPA on the application itself. Use of a chemical under section 18 of FIFRA for which no food uses are registered has been determined to be of national interest and therefore, the Agency has decided that public notice and opportunity for public comment pursuant to 40 CFR 166.10 is called for as a part of the informal adjudication for specific exemptions. Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address above. The comments must be received on or before July 11, 1985, and should bear the identifying notation "OPP–180679." All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, Crystal Mall No. 2 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption request by Nevada.

Dated: June 14, 1985.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85–15103 Filed 6–25–85; 8:45 am]

BILLING CODE 6560–50–M

[OPP–30229A, FRL–2852–7]

Glyco Inc.; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications submitted by Glyco, Inc. to register the pesticide products "Glycoserve" and "Glycoserve" Lad, which contain active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT:

By mail: Arturo Castillo, Product Manager (PM) 32, Registration Division (TS–767C), Office of Pesticide Programs, 401 M Street SW., Washington, DC. 20460.

Office location and telephone number: Rm. 244, TS–767C, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA 22202 (703–557–3964).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of July 6, 1983 (48 FR 31081), which announced that Glyco Inc., 51 Weaver Street, PO Box 700, Greenwich, CT 06836, had submitted applications to register the pesticide products Glycoserve" and Glycoserve" Lad containing the active ingredients 1,3-bis(hydroxymetheyl)-5,5-dimethylhydantoin and hydroxymethyl-5,5-dimethylhydantoin at 45 and 10 percent respectively; active ingredients not included in any previously registered products.

The applications were approved on March 8, 1985 for Glycoserve" (EPA Reg. No. 38906–6) and Glycoserve" Lad (EPA Reg. No. 38906–5) for use as a preservative in dish detergents, room deoderizers, and paints.

The Agency has considered all required data on the risks associated with the proposed uses of 1,3-bis(hydroxymethyl)-5,5-dimethylhydantoin and hydroxymethyl-5,5-dimethylhydantoin and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of 1,3-bis(hydroxymethyl)-5,5-dimethylhydantoin and hydroxymethyl-5,5-dimethylhydantoin, when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

More detailed information on this registration is contained in a Chemical Fact Sheet on 1,3-bis(hydroxymethyl)-5,5-dimethylhydantoin and hydroxymnethyl-5,5-dimethylhydantoin.

A copy of this fact sheet, which provide a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from Registration Division (TS–767C), Environmental Protection Agency, Registration Support and Emergency Response Branch, 401 M Street SW., Washington, D.C. 20460.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, Room 236, MC No. 2, Arlington, VA 22202 (703–557–3262). Request for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 401 M Street SW., Washington, D.C. 20460.

Such requests should: (1) Identify the product's name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

Dated: June 11, 1985.

Louis P. True,

Acting Director, Office of Pesticide Programs.

[FR Doc. 85–14886 Filed 6–25–85; 8:45 am]

BILLING CODE 6560–50–M

[FRL–2855–6]

California State Motor Vehicle Pollution Control Standards; Amendments Within the Scope of Previous Waivers of Federal Preemption; Summary of Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of scope of waiver of Federal preemption.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted amendments to its Assembly-Line Test Procedures for 1983 and subsequent model year passenger cars, light-duty trucks and medium-duty vehicles. The amendments revise the inspection portion of the assembly-line test procedures, clarify existing parts of the quality audit test procedure and eliminate the window decal requirement. I find these amendments to be within the scope of previous waivers of federal preemption granted to California for its assembly-line test procedures. Since these amendments are within the scope of these waivers, a public hearing to consider them is not necessary. However, if any party asserts an objection to these findings within 30 days of the date of publication of this notice, EPA will consider holding a public hearing to provide an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(b) waiver determination and that I should reconsider my findings. Otherwise, these findings will become final at the expiration of this 30-day period.

DATES: Any objections to the findings in this notice must be filed within 30 days

of the date of this notice; otherwise, at the expiration of this 30-day period these findings will become final. Upon receipt of any timely objection, EPA will consider scheduling a public hearing in a subsequent **Federal Register** notice.

ADDRESSES: Any objection to the findings in this notice should be filed with Mr. Donald E. Zinger, Acting Director, Manufacturers Operations Division (EN340–F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Copies of the California amendments at issue in this notice and a decision document containing an explanation of my determination, are available for public inspection during normal working hours (8:00 a.m. to 4:00 p.m.) at the Environmental Protection Agency, Central Docket Section, Gallery I, 401 M Street, SW., Washington, D.C. 20460 (Docket En–85–06). Copies of the decision document can be obtained from EPA's Manufacturers Operations Division by contacting Ms. McKnight as noted below.

FOR FURTHER INFORMATION CONTACT: Cynthia Garrtt McKnight, Attorney/Advisor, Manufacturers Operations Division (EN–340–F), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382–2521.

SUPPLEMENTARY INFORMATION: I have determined that CARB's amendments are within the scope of waivers of federal preemption previously granted pursuant to section 209(b) of the Clean Air Act, as amended (Act).[1] Specifically, the changes eliminate the steady-state test portion of the inspection procedure, require manufacturers to design and implement an inspection procedure to include expanded functional testing, and delete the window decal requirement. The amendments also clarify existing parts of California's quality audit test procedures.

These amendments do not undermine California's determination that its standards are, in the aggregate, at least as protective as federal standards, raise no new issues regarding previous waivers of federal preemption and are not inconsistent with section 202(a) of the Act. A full explanation of my determination is contained in a decision document, which may be obtained from EPA as noted above.

Since these amendments are included within the scope of t previously granted waivers of federal preemption, a public hearng to consider them is not necessary. The public has not had an opportunity to comment in advance of this determination. Therefore, my determination on these amendments will become final at the expiration of 30 days following publication of this notice, unless an objection is filed and a public hearing is scheduled.

My decision will affect not only persons in California but also the manufacturers located outside the State who must comply with California's requirements in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this decision is of nationwide scope and effect. Accordingly, judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication. Under section 307(b)(2) of the Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

This action is not a rule as defined by section 1(a) of Executive Order 12291, 46 FR 13193 (February 19, 1981), because it does not "implement, interpret, or prescribe law or policy." Therfore, it is exempt from review by the Office of Management and Budget as required for rules and regulations by Executive Order 12291. Additionally a Regulatory Impact Analysis is not being prepared under Executive Order 12291, for this "within the scope" determination since it is not a rule.

This action also is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2), because the action is not required to undergo prior "notice and comment" under section 553(b) of the Administrative Procedure Act, or any other law. Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small entities.

Dated: June 17, 1985.

Charles L. Elkins,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 85–15324 Filed 6–25–85; 8:45 am]

BILLING CODE 6560–50–M

[1] 45 FR 54126 (August 14, 1980) and 44 FR 7807 (February 7, 1979).

FEDERAL RESERVE SYSTEM

Citicorp et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 16, 1985.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York; to engage *de novo* through its direct or indirect subsidiaries in acting as investment and financial advisor to the extent of providing portfolio investment advice, including investment management services, to individuals, corporations, trustees, and other persons and furnishing general economic information and advice, general statistical forecasting services and industry studies. These activities would be conducted throughout the United States, Great Britain, and Hong Kong.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Presque Isle Bancorporation, Inc.*, Rogers City, Michigan; to engage *de novo* directly in the providing of

portfolio investment advice for investment of funds in a security.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *United Banks of Colorado, Inc.*, Denver, Colorado; to continue to engage in previously approved direct lending activities and to expand the geographic scope of these activities to include the entire United States, through its wholly owned subsidiary, United Financial Centers, Inc., Denver, Colorado.

Board of Governors of the Federal Reserve System, June 20, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-15357 Filed 6-25-85; 8:45 am]

BILLING CODE 6210-01-M

CNB Corp. et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842 (c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 18, 1985.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *CNB Corporation*, Cheboygan, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens National Bank of Cheboygan, Cheboygan, Michigan.

2. *W.D.K. Bancorporation*, Hampton, Iowa; to become a bank holding company by acquiring 97.78 or more of the voting shares of Palmer State Bank, Palmer, Iowa.

B. **Federal Reserve Bank of Minneaplois** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Yellowstone Holding Company*, Columbus, Montana; to acquire 100 percent of the voting shares of Yellowstone Bank, Billings, Montana, a *de novo* bank.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Colorado Springs Banking Corporation*, Colorado Springs, Colorado; to acquire 35.40 percent of the voting shares of Pueblo Bancorporation, Pueblo, Colorado, thereby indirectly acquiring Pueblo Bank and Trust Company, Pueblo, Colorado.

Board of Governors of the Federal Reserve System, June 20, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-15356 Filed 6-25-85; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Office of Policy and Management Systems, GSA.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) requests the Office of Management and Budget (OMB) to review an existing information collection and to reinstate two previously approved collections.

ADDRESSES. Send comment to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to William W. Hiebert, GSA Clearance Officer, General Services Administration (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: See below.

SUPPLEMENTARY INFORMATION:

1. Purpose

a. Report of Employment Under Commercial Activity Contracts

The information required from contractors on the employment of former federal employees is used to ensure that severance pay will be properly distributed by the Government. Respondents and responses 150, hours 75. Contact: Gaye Kester, Office of Acquisition Policy (202-523-4763).

b. Contractor's Report of Order Received

The data from this collection is used by the Government to estimate requirements for new supply schedule contracts, evaluate the effectiveness of schedules, and negotiate for better prices. Respondents, 4,300; responses 112,000; and hours 28,000. Contact: Rosa McCullough, Office of Federal Supply and Services (703-557-2741).

Statement of Witness

This collection provides the Government with data on motor vehicle accidents by persons who have witnessed the accident. Respondents and responses 1,248; hours 416. Contact Ira Davis, Office of Federal Supply and Services (703-557-1288).

2. Copies of Proposal.

Copies may be obtained from the Directives and Reports Management Branch (ATRAI), Room 3007, GS Building, Washington, DC 20405 (202-566-0666).

Dated: June 18, 1985.

Johnny T. Young,

Acting Director, Information Management Divisions.

[FR Doc. 85-15338 Filed 6-25-85; 8:45 am]

BILLING CODE 6820-81-M

Special Police Protection for the National Archives Building

AGENCY: Office of Federal Protection and Safety, GSA.

ACTION: Notice.

SUMMARY: The General Services Administration (GSA) will continue its current level of special police protection for the National Archives Building. Pursuant to 40 U.S.C. 318b, GSA will continue these services on a reimbursable basis for a period of 3 years. GSA will extend the applicability of GSA's regulations governing conduct on Federal property (41 CFR 101-20.3), and enforce such rules the same as set forth in 40 U.S.C. 318-318c.

Date Signed: June 12, 1985.

Harvey E. Pryor,

Assistant Commissioner for Federal Protection and Safety.

[FR Doc. 85-15337 Filed 6-25-85; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Cooperative Agreement for a Project To Develop and Apply Screening Bioassays for Detecting Toxic Substances Availability of Funds for Fiscal Year 1985

The Centers for Disease Control (CDC) announces the availability of funds in Fiscal Year 1985 for a cooperative agreement to support the Division of Laboratory Services, Department of Health and Human Resources for the State of Louisiana to identify and determine the presence of chemical toxicity resulting from any suspected environmental contamination and to develop a battery of microbial bioassays for the detection of toxic substances in biological and environmental samples. This project will complement a similar CDC research program within the Center for Environmental Health (CEH), CDC. The ultimate goal of this project is the prevention of illness. Early detection of toxicants in the environment could provide protection to the public by early intervention, thereby reducing or eliminating exposure.

Louisiana was selected as the site for this project because of its multiple interest in environmental public health and its potential for developing technology which can be shared with other States. Due to its geographical location on the Mississippi River and petrochemical industrial base, Louisiana is both a recipient and manufacturer of numerous highly toxic chemicals. The Mississippi River drains nearly 40 percent of the agricultural, urban, and industrial lands in the nation. In addition to considerable air, surface, and ground water contamination, Louisiana ranks in the top 10 percent of States having the greatest number of hazardous waste sites (approximately 300). The health hazards associated with all of these potential exposures are of great concern, yet are poorly defined and understood. At the same time, cancer is one of the most serious public health problems in the State and is the second leading cause of death.

Before well-defined studies can be performed to elucidate the effects of toxic chemicals contaminating the environment, they must first be identified and quantitated so that exposure estimates can be made. The proposed battery of tests can provide the Division of Laboratory Services of Louisiana with a cost-effective technology that can be applied to a large number of samples in resolution of environmental emergencies as well as a monitoring and/or screening mechanism, if applied to drinking water and other environmental compartments. This technology will be transferred to other State laboratories when established and field evaluated.

It is estimated that approximately $50,000 will be available during Fiscal Year 1985 to support this project. Continuation awards will be made on the basis of satisfactory progress in meeting project objectives and on the availability of funds.

Information may be obtained from Luther E. DeWeese, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 321, Atlanta, Ga., 30305, telephone (404) 262-6575 or FTS 236-6575.

(The Catalog of Federal Domestic Assistance Number is 13.282)

Dated: June 18, 1985.

William E. Muldoon,

Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 85-15300 Filed 6-25-85; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 85D-0242]

Draft Guidelines Supplementing the Regulations Governing the Review and Approval of New Drug and Antibiotic Marketing Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of nine draft guidelines to supplement the recently published final regulations governing the review and approval of new drug and antibiotic marketing applications. The guidelines are intended to assist applicants in complying with the requirements of the regulations. FDA is making these guidelines available in draft to solicit public comments on them. FDA is also making available a staff manual guide on time frames applicable to the review and approval of marketing applications. The draft guidelines and the staff manual guide were prepared by FDA's Center for Drugs and Biologics.

DATE: Comments by September 24, 1985.

ADDRESSES: Requests for copies of the draft guidelines may be made in writing to the Support Services Branch (HFN-62), Center for Drugs and Biologics, Food and Drug Administration, Rm. 13B-05, 5600 Fishers Lane, Rockville, MD 20857, or by telephone to 301-443-6060. A request for a guideline should identify the desired guideline by its docket number. A request for the staff manual guide on time frames should request it by its number, CDB 4820.2.1.

Written comments regarding the draft guidelines may be submitted to the Dockets Management Branch (HFA-305) Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Comments on a draft guideline should identify the guideline by its title and docket number.

FOR FURTHER INFORMATION CONTACT: Steven H. Unger, Center for Drugs and Biologics (HFN-362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 22, 1985 (50 FR 7452), FDA revised the regulations governing the approval for marketing of new drugs and antibiotic drugs for human use. This rule—otherwise known as the NDA Rewrite—was intended to speed up the availability of beneficial drugs to consumers by improving the efficiency of the agency's approval process for new drugs and antibiotic drugs while improving the high level of public health protection the previous procedures already provided. The NDA Rewrite was designed to assist drug manufacturers to prepare and submit higher quality applications and permit FDA to review them more efficiently and with fewer delays.

In the NDA Rewrite final regulations, FDA stated its intent to supplement the regulations with detailed guidelines intended to provide applicants with guidance on application format and presentation and on other provisions of the regulations. In this notice, FDA is announcing the availability in draft of the following nine new guidelines:

1. Guideline for the Format and Content of an Application Summary [Docket No. 85D-0247].

2. Guideline for the Format and Content of the Chemistry, Manufacturing, and Controls Section of an Application [Docket No. 85D-0243].

3. Guideline for the Format and Content of the Nonclinical Pharmacology/Toxicology Section of an Application [Docket No. 85D-0244].

4. Guideline for the Format and Content of the Human Pharmacokinetics and Bioavailability Section of an Application [Docket No. 85D-8275].

5. Guideline for the Format and Content of the Microbiology Section of an Application [Docket No. 85D-0245].

6. Guideline for the Format and Content of the Statistical Section of an Application [Docket No. 85D–0246].

7. Guideline on Formatting, Assembling, and Submitting New Drug and Antibiotic Applications [Docket No. 85D–0248].

8. Submission in Microfiche of the Archival Copy of an Application [Docket No. 85D–0250].

9. Guideline for Postmarketing Reporting of Adverse Drug Reactions [Docket No. 85D–0249].

The draft guidelines on the presentation and format of the application suggest appropriate ways to organize and present the required data and information in the application summary and in the technical sections of the application—the sections on chemistry, manufacturing, and controls; nonclinical pharmacology/toxicology; biopharmaceutics and bioavailability; microbiology; and statistics. In addition, FDA will shortly be making available a presentation and format guideline for the clinical section of the marketing application. The availabilty of this one additional draft guideline will also be announced in a notice to be published in the **Federal Register.**

The draft guideline "Guideline on Formatting, Assembling, and Submitting New Drug and Antibiotic Applications" provides general guidance to applicants on the mechanics of putting together the archival and review copies of an application. This guidance includes recommendations on how to organize multivolume submissions. This guideline also identifies appropriate agency offices to which applications and correspondence should be sent.

The draft guideline "Submission In Microfiche of the Archival Copy of an Application" suggests procedures and specifications to be followed when an applicant chooses to submit the archival copy of an application in microfiche.

Finally, the draft guideline "Guideline for Postmarketing Reporting of Adverse Drug Reactions" provides guidance for complying with the requirements for reporting adverse drug reactions in 21 CFR 314.80. This guidance includes information on completing the Form FDA–1639, on the sources of adverse dryg reaction information, and on how to submit the reports.

In conjunction with publication of these guidelines, FDA is also making available a staff manual guide (Guide CDB 4820.2.1) on time frames governing the review and approval of applications for new drugs and antibiotics. This document describes the review and filing clocks that govern agency review of pending applications. It also provides guidance for determining whether an amendment to a pending application is sufficiently "major" to justify extending the date by which the agency is required to act on an application, and, is so, what the length of the extension should be. Under § 314.60 of the NDA Rewrite, submission of a "major" amendment, whether on the applicant's own initiative or at the agency's request, constitutes an agreement to extend the review period for the time estimated to be necessary to review the new information. This new staff manual guide may be obtained from the Support Services Branch, address above.

Issuance of these nine guidelines and the new staff manual guide follows publication in draft form of five guidelines that provide guidance on submitting supporting documentation for the chemistry-related sections of an application:

1. Guideline for the Submission of Supporting Documentation for Packaging of Human Drugs and Biologics [Docket No. 84D–0015].

2. Guideline for the Submission of Supporting Documentation for Stability Studies of Human Drugs and Biologics [Docket No. 84D–0115].

3. Guideline for the Submission of Supportive Analytical Data for Methods Validation in New Drug Applications [Docket No. 84D–0134].

4. Guideline for Submitting Supporting Documentation in Drug Applications for the Manufacture of Drug Substances [Docket No. 85D–0108].

5. Guideline for Submitting Supporting Documentation for the Manufacture of Finished Dosage Forms [Docket No. 85D–0078].

FDA is making these new draft guidelines available for public comment before adopting them as the formal position of the agency. If, following the receipt of comments, the agency concludes that the draft guidelines, as revised, reflect acceptable criteria for use in submitting data and information in new drug and antibiotic marketing applications, the guidelines will be made final, and FDA will announce their availability under 21 CFR 10.90(b).

Section 10.90(b) provides for the use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to the agency. A person who follows a guideline can be assured that his or her conduct will be acceptable to the agency. A person may choose to use alternative procedures even though they are not provided for in the guideline. A person who chooses to do so may discuss the matter further with the agency to prevent an expenditure of money and effort for work that the agency may later determine to be unacceptable. Therefore, interested persons are encouraged to use this opportunity to submit comments on the draft guidelines if they have suggestions for their revision.

Interested persons may, on or before September 24, 1985, submit written comments on the draft guidelines to the Dockets Management Branch (address above). These comments will be considered in determining whether amendments to, or revisions of, the draft guidelines are warranted. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets next to the title of each draft guideline listed above. The draft guidelines and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 19, 1985.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 85–15283 Filed 6–25–85; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species; Receipt of Application for Permit; Woodland Park Zoo, Seattle, WA et al

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531. *et seq.*):

Applicant: Woodland Park Zoo, Seattle, WA—PRT—695573

The applicant requests a permit to re-export a captive-born lion-tailed macaque (*Macaca silenis*) to the Chongging Zoological Gardens, Chongging, China, for the purpose of enhancement of propagation.

Applicant: John E. Parks, Ithaca, NY—PRT—695839

The applicant requests a permit to take (harass) captive peregrine falcons (*Falco peregrinus*), bald eagles (*Haliaeetus leucocephalus*) and other endangered raptors for the purpose of obtaining semen for scientific research.

Applicant: Little Rock Zoo, Little Rock, AR—PRT—695584

The applicant requests a permit to import a pair of captive born maned wolves (*Chrysocyon brachyurus*) from the Krefeld Zoo, West Germany, for the purpose of enhancement of propagation.

Applicant: Woodland Park Zoo, Seattle, WA—PRT—695575

The applicant requests a permit to import two pair of white-eared pheasants (*Crossoptilon crossoptilon*) from the Chongging Zoo, Chongging, China, for the purpose of enhancement of propagation.

Applicant: Russel Reed, Anchorage, AK—PRT—695309

The applicant requests a permit to import the sport-hunted trophy of a bontebok (*Damaliscus d. dorcas*) to be culled from the captive herd of C.J. Retief, Harrismith, South Africa, for the purpose fo enhancement of propagation.

Applicant: Joseph C. Witt, Orange, CA—PRT—695299

The applicant requests a permit to purchase in interstate commerce one female red siskin [*Carduelis*(=*Spinus*) *cucullatus*] from Mrs. Lillian Knaggs, Toledo, OH, for the purpose of enhancement of propagation.

Applicant: Everett B. Pannkuk, Carg, NC—PRT—695601

The applicant requests a permit to import the sport-hunted trophy of a bontebok (*Damaliscus D. dorcas*) to be culled from the captive herd of Phil Van der Merwe, Skietkuil Ranch, South Africa, for the purpose of enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Date: June 20, 1985.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 85-15285 Filed 6-25-85; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

Salt Lake District Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92-463 that the Salt Lake District Grazing Advisory Board will be meeting on August 14, 1985.

The Board will meet at 10:00 a.m. at the Salt Lake District office, at 2370 South 2300 West, Salt Lake City, Utah. The purpose of the meeting will be to: (1) review range improvement projects, and (2) review status of the Box Elder RMP/EIS.

The meeting is open to the public and interested persons may make oral statements at the business meeting between 10:00 and 10:30 a.m., or file a written statement for the Board's consideration. Persons wishing to make statements to the Board are requested to contact Glade Anderson at 524-5348 prior to August 1, so that adequate time can be included on the agenda.

FURTHER INFORMATION CONTACT: Glade Anderson, Range Conservationist, Bureau of Land Management, Salt Lake District Office, 2370 South 2300 West, Salt Lake City, Utah 84119, (801) 524-5348.

Frank W. Snell,

Salt Lake District Manager.

[FR Doc. 85-15270 Filed 6-25-85; 8:45 am]

BILLING CODE 4310-DQ-M

[A 20236]

Noncompetitive Sale—Public Land in Gila County, AR

AGENCY: Bureau of Land Management (BLM) Interior.

REALTY ACTION: Noncompetitive Sale—Public Land in Gila County, Arizona.

BLM proposes to sell by direct—noncompetitive means, as provided in 43 CFR 2711. 3-3(a), the following described public land:

Gila and Salt River Meridian, Arizona

T. 1 N., R. 14 E.,
Sec. 22, Lots 8, 9, and 14;
Sec. 23, Lots 1 and 2;
Sec. 26, Lots 1, 2 and 3;
Sec. 27, Lots 4.

Containing 5.61 acres more or less.

The applicant, Inspiration Consolidated Copper Company will pay the appraised fair market value of $1,350.00.

Disposal is consistent with the Federal Land Policy and Management Act: Surface disposal will be according to section 203(a) 90 Stat. 2750, 43 U.S.C. 1713 and minerals will be conveyed per section 209(b) (90 Stat. 2757, 43 U.S.C. 1719), except oil and gas, for an administrative fee of $50.00.

The lots result from lands not included in patented mineral surveys. The public interest would best be served by a direct sale to the adjacent landowner.

Management of the lots by the BLM is considered uneconomic and difficult. Disposal will be consistent with the Middle Gila MFP. The grazing lessee has waived the right to the 2 near notification prior to partial cancellation of the grazing lease.

The patent issued as the result of the sale will be subject to all valid existing rights and may contain a reservation to the United States for a right-of-way for ditches and canals under the Act of August 30, 1980 (26 Stat. 391; 43 U.S.C. 945) and for oil and gas under the Act of July 17, 1914.

The publication of the notice in the **Federal Register** shall segregate the described lands to the extent that they will not be subject to appropriation under the public land laws, including the mining laws.

This segregation shall terminate upon: issuance of patent or other document of conveyance to such lands, upon publication in the **Federal Register** of a termination of the segregation or 270 days from the date of publication whichever occurs first.

Detailed information concerning this public sale, including the environmental assessment and the record of public input is available for review at the Phoenix District Office, Bureau of Land Management, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

For a period of 45 days from the date shown below, interested parties may submit comments to the Phoenix District Manager at the address given above. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior and the required payments, including publication costs, will be requested of Inspiration Consolidated Copper Company.

Date: June 14, 1985.

Marlyn V. Jones,

District Manager.

[FR Doc. 85-15306 Filed 6-25-85; 8:45 am]

BILLING CODE 4310-32-M

Land Sale Butte District, Montana

AGENCY: Bureau of Land Management, Butte District Office, Interior.

ACTION: Notice of Realty Action M59067, non-competitive sale of public land in Madison County.

SUMMARY: The following described lands have been examined and identified as suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976, 43 U.S.C. 1713 (1976), at no less than the fair market value:

Tract No.	Lessee	Legal Description	Acres
		Principal Meridian	
10	Rustad Land and Livestock	T. 2 S., R. 5 W.	240
		Sec. 28: NE¼, N½SE¼	
24	Ray Easter	T. 3 S., R. 1 W.	40
		Sec. 35: SW¼SW¼	
		T. 7 S., R. 7 W.,	
47	Malesich Ranch Co	Sec. 2: NE¼SE¼	40
48	George and Pete Rebish	Sec. 26: SE¼SW¼	40
49	George and Pete Rebish	Sec. 27: NW¼SE¼	40
50	George and Pete Rebish	Sec. 35: NW¼NW¼	40

These lands are being offered as a direct sale to the above listed grazing lessees. These lands have been offered for disposal previously. Sale of the land will not occur until at least 60 days after the date of this notice. The subject lands are located in southwestern Montana in Madison County. The lands are all isolated tracts which are surrounded by or adjacent to private lands owned by the grazing lessees. These lands are difficult and uneconomical to manage. The proposed sale is consistent with the Bureau's planning system and Madison County government officials have been notified.

Terms and conditions: The terms and conditions applicable to this sale are as follows:

1. All minerals will be reserved to the United States together with the right to explore, prospect for, mine, or remove same under applicable law and regulations;

2. A right-of-way for ditches or canals will be reserved to the United States in accordance with 43 U.S.C. 945;

3. The sale of these lands will be subject to all valid existing rights and reservations of record.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, at the address shown below. Any adverse comments will be evaluated by the BLM Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

SUPPLEMENTARY INFORMATION: Information related to the sale is available for review at the Butte District Office, P.O. Box 3388, Butte, Montana 59702.

Dated: June 16, 1985.

Jack A. McIntosh,

District Manager.

[FR Doc. 85-15301 Filed 6-25-85; 8:45 am]

BILLING CODE 4310-DN-M

Planning Activity: Amendment to Valley Resource Area MFP

AGENCY: Bureau of Land Management, Valley Resource Area, Lewistown District Office, Interior.

ACTION: Notice of Planning Activity; Amendment to Valley Management Framework Plan.

SUMMARY:

1. The proposed planning action will pursue a category 1 planning amendment to the Valley Management Framework Plan (MFP). The MFP limits livestock use during the spring and summer period in the Carpenter Creek and Cabin Coulee Allotment in order to maintain elk habitat and numbers. The MFP also specifies a grazing system for the Craig Coulee Allotment; a 3-pasture rest-rotation system. This amendment will consider modifying the existing MFP to allow implementation of different grazing systems on three allotments for the management of critical elk habitat and other values. This amendment is modest in nature as it will involve only one issue and will address only three allotments in the Resource Area.

2. The geographic area to be considered is located in the Missouri Breaks, Valley County, Montana. Specifically the allotments under consideration are the Carpenter Creek, Cabin Coulee and Craig Coulee.

3. The main issue involved in this amendment is the management of Carpenter Creek Allotment with regard to the elk habitat and the effects a change in grazing systems would have on this habitat.

Principal considerations include the effects grazing systems would have on wildlife, recreation and grazing management. The decisions needed include:

a. Should the MFP be amended to allow a different grazing system to be implemented?

b. If the MFP is amended, which grazing system would provide the best mix of multiple-use values emphasizing wildlife, recreation, watershed and range?

4. The interdisciplinary team for the environmental analysis will consist of: a. Wildlife Biologist; b. Range Conservationist; c. Soil Scientist; and d. Recreation Planner.

5. The public has been or will be invited to participate in selection of planning criteria, scoping, defining alternatives and reviewing the environmental assessment.

6. No public meetings are scheduled at this time, if public meetings are set, they will be announced in the local media.

7. For further information on this planning action contact: Dennis R. Hoyem, Area Manager, USDI/Bureau of Land Management, Valley Resource Area, Route 1–4775, Glasgow, Montana 59230.

8. All relevant planning documents are located at the above address and are available for public inspection and information at the same address during normal working hours (7:45 a.m. to 4:30 p.m.)

Dated: June 17, 1985.

Glenn W. Freeman,

Acting District Manager

[FR Doc. 85-15302 Filed 6-25-85; 8:45 am]

BILLING CODE 4310-DN-M

Bureau of Reclamation

Freeman Diversion Improvement Project United Water Conservation District, Ventura County, CA; Availability of Draft Joint Environmental Impact Statement-Environmental Impact Report and Public Hearing

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, and Section 21002 of the California Environmental Quality Act, the Bureau of Reclamation, Department of the Interior, and the United Water Conservation District have prepared a draft joint environmental impact statement-environmental impact report (DEIS–EIR). The DEIS–EIR assesses the impacts associated with the construction and operation of the

Freeman Diversion Improvement Project near Saticoy, California, for which Public Law 84–984 loan application is pending with the Bureau of Reclamation.

The purpose of the proposed project is to protect the historic diversion of water and to permit additional diversion of water from the Santa Clara River during high river flow conditions. The additional water would be used to reduce the current ground-water overdraft and related seawater intrusion into acquifers of the Oxnard Plan. The proposed project will consist of a 1,200-foot-long overflow type of diversion structure, a 3,300-foot-long conveyance canal and a desilting basin covering 70 acres. The Freeman Diversion Structure would be located about 2.5 miles upstream from the Los Angeles Bridge (Highway 118), between the community of Saticoy and the city of Santa Paula, and about 7 miles northeast of the city of Oxnard.

Portions of the proposed site for the Freeman Diversion Improvement Project are within flood plain and wetland areas. Accordingly, the objectives and requirements of Presidential Executive orders 11988 and 11990, and the Reclamation Instructions, Chapter 376.5, have been considered throughout the planning and preparation of the DEIS–EIR. As a joint document, the final EIS–EIR will meet the requirements of both the National Environmental Policy Act and the California Environmental Quality Act.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7622, Bureau of Reclamation, Washington, D.C. 20240, Telephone: (202) 343–4991,

Property and Services Branch, Technical Publications and Library Branch, Engineering and Research Center, Code 980, Denver, Colorado 80225, Telephone: (303) 236–5972

Regional Environmental Quality Office, Bureau of Reclamation, Federal Building, 2800 Cottage Way, Room W–1102, Sacramento, California 95825–1898, Telephone: (916) 484–4792

United Water Conservation District, 333 West Harvard Boulevard, Santa Paula, California 93060, Telephone: (805) 525–4431

Single copies of the statement may be obtained on request to the above-listed offices. Copies will also be sent to libraries in the project vicinity.

Written comments on the DEIS–EIR should be submitted to the Bureau of Reclamation office in Sacramento, California, by August 19, 1985.

A public meeting will be held at the Oxnard Civic Center, 800 Hobson Way, Oxnard, California, at 7:00 p.m. in the Ventura Room on August 7, 1985.

Individuals and representatives of interested organizations will have an opportunity to make oral presentations on the DEIS–EIR at the hearing. Those persons intending to testify should limit their oral presentation to 10 minutes. More extensive comments should be presented in writing by August 19, 1985, to the Bureau of Reclamation at the preceeding address for its Sacramento, California, office, or summarized orally and filed with the presiding officer. A sign-up sheet will be provided at the hearing.

Both oral and written comments on the current DEIS–EIR will be considered in preparing the final environmental impact statement-environmental impact report on the proposed project.

Date: June 21, 1985

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 85–15318 Filed 6–25–85; 8:45 am]

BILLING CODE 4310-09-M

Minerals Management Service

Receipt of a Proposed Development Operations Coordination Document (DOCD); Marathon Oil Co.

AGENCY: Minerals Management Service Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that Marathon Oil Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 4449, Block 159, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on June 14, 1985. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: June 18, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85–15311 Filed 6–25–85; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Statue of Liberty National Monument

AGENCY: National Park Service, Interior.

ACTION: Notice of Closure.

SUMMARY: The National Park Service issues this notice to close the Statue of Liberty National Monument to all visitors. Closure is necessary to avoid serious safety and health hazards associate with increased construction activity. The Monument will be closed for a period of thirty (30) days beginning of June 24, 1985. During this time the National Park Service will proceed with formal rulemaking imposing an extended closure. Request for information may be directed to:

David Moffitt, Superintendent, Statue of Liberty National Monument, Liberty Island, New York, New York 10004, (212) 732-1236.

SUPPLEMENTARY INFORMATION: The Statue of Liberty National Monument has been under renovation since November 1983. The goal is to have the Statue and supporting facilities completely restored prior to July 4, 1986, the date of the first major Centennial Celebration. Aside from the repair and restoration of the Statue major improvements to visitor facilities on Liberty Island have also been planned. This work includes major re-landscaping, enlargement of the present concession building and total rehabilitation of the museum within the base of the Statue of Liberty.

Work on the Statue of Liberty has progressed in an orderly and timely manner. However, due to unforeseen delays in planning and construction the work on the remainder of the island, landscaping, enlargement of concession facilities and museum rehabilitation are behind schedule and unless an accelerated work program is instituted the project cannot be accomplished on schedule.

In order to institute this accelerated work program, Lehrer/McGovern, the construction Manager for the Statue of Liberty-Ellis Island Foundation has informed the National Park Service, through the Foundation, that Liberty Island must be close to all public visitation as quickly as possible. This closure recommendation of Lehrer/McGovern is based on the concern for the health and safety of the visiting public. Construction activities must be initiated in all public use areas not later than June 24, 1985 in order to insure completion by July 4, 1986.

There is no alternative to closure by June 24, 1985 if the project is to be completed on the schedule publicly stated by National Park Service officials and officers of the Statue of Liberty-Ellis Island Foundation. Major planning efforts and funds have already been expended for the celebration of July 4, 1986 and not to meet the completion schedule is considered unacceptable by the Department of the Interior and the National Park Service.

Determination of Effects

There will be some effect on a few small businesses but there is no way to avoid this effect. The closure of Liberty Island cannot be avoided without compromising quality and cost of renovation of the Statue and supporting facilities. The closure of Liberty Island has been phased in with first closure of the Statue, total Island closure two days a week, closure of the Pedestal Museum and now total closure of the Island. This phasing has resulted in minimal economic effect on all concerned.

This action is taken under the authority of 36 CFR Part 1 Sec. 1.5

Dated: June 24, 1985.

William Penn Mott, Jr.,

Director.

[FR Doc. 85-15392 Filed 6-25-85; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 394 (Sub.-1)]

Cost Ratio for Recyclables—1983 Determination

AGENCY: Interstate Commerce Commission.

ACTION: Determination of revenue-to-variable cost (r/vc) ratios for nonferrous recyclables for the years 1982-1985 and a statement as to how future ratio changes will be established.

SUMMARY: (1) Nonferrous recyclable r/vc ratios are established under 49 U.S.C. 19731(e) pursuant to a prior notice at 48 FR 29925, June 29, 1983. The ratios are 143.8 percent for 1982, 152.2 percent for 1983, 158.6 percent for 1984, and 153.4 percent for 1985. (2) The r/vc ratio will be calculated annually. (3) Reparations for shipments where revenues exceeded the applicable maximum ratio should be determined on the basis of the ratios established in this proceeding. (4) Carriers may apply rail cost adjustment factors (RCAF) under 49 U.S.C. 10707a(a) to nonferrous recyclable rates. Carriers using RCAF increases must also apply subsequent decreases. (5) The r/vc ratio will be prescribed to an accuracy of 0.1 percent in the future.

DATE: This decision is effective on July 26, 1985.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Wash., DC 20423, or call 289-4357 (DC metropolitan area) or toll free (800) 424-5403.

This action will not significantly affect either the quality of the human environment or energy conservation.

Final Regulatory Flexibility Analysis. The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, provides that an agency promulgating a final rule under 5 U.S.C. 553 must prepare a final regulatory flexibility analysis, unless the agency certifies that the rule will not have a significant impact on a substantial number of small entities. The small entities affected by this decision include those businesses that originate or terminate nonferrous recyclables and certain railroads that transport these materials. This decision establishes r/vc ratios for future movements of nonferrous recyclables. It also sets r/vc ratios for prior years to be used in determinations of reparations where revenues exceeded the applicable maximum ratios. The actual impact of these adjustments is difficult to determine at this time, because it would vary depending on, among other factors, volume of recyclable shipments during a particular period and the willingness of particular shippers and railroads to seek individual adjustment where particular movements returned revenues above or below the r/vc cap. Therefore, as a matter of caution, we conclude that the required implementation of 49 U.S.C. 10731 by this decision may have a significant impact on a substantial number of small entities.

A final regulatory flexibility analysis must contain (1) a statement of the need for and objectives of the rule, (2) a summary and discussion of issues raised by public comments, and (3) a discussion of alternatives considered. The main body of this decision contains the discussion required by the Regulatory Flexibility Act on all these points. We did not consider it appropriate to make an exception for small business entities and record keeping and accounting requirements remain unchanged.

Authority: 49 U.S.C. 10731(e).

Decided: June 19, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley and Strenio. Commissioner Andre concurred with a separate expression.

James H. Bayne,

Secretary.

[FR Doc. 85-15323 Filed 6-24-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-18 (Sub-66X)]

The Chesapeake and Ohio Railroad Co; Discontinuance of Service in Kanawha County, WV; Exemption

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to discontinue service over its 5.02-mile line of railroad between Point of Switch

602+33 at or near Leewood and Valuation Station 867+36 (end of line) at or near Kayford, in Kanawha, WV.

Application has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line or may be rerouted, and (2) that no formal complaint filed by a user of rail service and the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective July 26, 1985, (unless stayed pending reconsideration). Petitions to stay must be filed by July 8, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by July 16, 1985 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Rene J. Gunning, Suite 2204, 100 North Charles Street, Baltimore, MD 21201.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: June 19, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-15322 Filed 6-24-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Membership of the Department of Justice's Senior Executive Service (SES) Performance Review Boards

AGENCY: Department of Justice.

ACTION: Notice of the Department of Justice's 1985 SES Performance Review Boards.

SUMMARY: Pursuant to the requirement of 5 U.S.C. 4314(c)(4), the Department of Justice announces the membership of its SES Performance Review Boards. The purposes of the Performance Review Boards are to provide fair and impartial review of Senior Executive Service performance appraisals and to make recommendations to the Deputy Attorney General regarding the ratings.

FOR FURTHER INFORMATION CONTACT: Mr. Warren Oser, Director, Personnel Staff, Justice Management Division, Department of Justice, Washington, D.C. 20530. Telephone: 633-3221.

Harry H. Flickinger,

Executive Secretary, Senior Executive Resources Board.

Performance Review Board #1

Offices of the Attorney General, Deputy Attorney General, and Associate Attorney General; Justice Management Division.

Principal Members

Gilbert L. Ingram (Board Chair), Assistant Director for Correctional Programs, Bureau of Prisons
Robert W. Ogren, Chief, Fraud Section, Criminal Division
Charles J. Alexander, Special Litigation Counsel, Tax Division

Alternate Members

Joel H. Meshorer, Chief, Indian Resources Section, Land and Natural Resources Division
Raymond M. Kisor, Associate Commissioner for Enforcement, Office of Enforcement, Immigration and Naturalization Service

Performance Review Board #2

Criminal Division; Community Relations Service; Office of Professional Responsibility, Intelligence Policy and Review, Legal Policy, and Public Affairs; Executive Office for U.S. Attorneys.

Principal Members

John W. Clark (Board Chair), Chief, Special Trial Section, Antitrust Division
Mark R. Disler, Deputy Assistant Attorney General, Civil Rights Division
Robert D. Schmidt, Assistant Director for Inspections, U.S. Marshals Service

Alternate Members

Donald A. Carr, Chief, Wildlife and Marine Resources Section, Land and Natural Resources Division
D. Jerry Rubino, Director, Security Staff, Justice Management Division

Performance Review Board #3

Civil Division; Office of the Solicitor General; U.S. Marshals Service; Foreign Claims Settlement Commission.

Principal Members

Paul E. Coffey (Board Chair), Deputy Chief, Organized Crime and Racketeering Section, Criminal Division
Benjamin H. Renshaw, Deputy Director, Bureau of Justice Statistics, Office of Justice Programs
Gregory J. Leo, Director, Congressional and Public Affairs, Immigration and Naturalization Service

Alternate Members

Charles S. Stark, Chief, Foreign Commerce Section, Antitrust Division
David L. Milhollan, Director, Executive Office for Immigration Review

Performance Review Board #4

Antitrust Division; Office of Legal Counsel; Office of Legislative and Intergovernmental Affairs; Executive Office for Immigration Review.

Principal Members

Michael L. Paup (Board Chair), Chief, Appellate Section, Tax Division
Mary C. Lawton, Counsel for Intelligence Policy, Office of Intelligence Policy and Review
Philip M. Zeidner, Director, Facilities and Property Management Staff, Justice Management Division

Alternate Members

Wade B. Houk, Jr., Assistant Director for Planning and Development, Bureau of Prisons
Roger A. Pauley, Director, Office of Legislation, Criminal Division

Performance Review Board #5

Immigration and Naturalization Service; Civil Rights Division.

Principal Members

Joan M. Bernott (Board Chair), Special Litigation Counsel, Civil Division
Jose R. Allen, Chief, General Litigation Section, Land and Natural Resources Division
Laurence S. McWhorter, Deputy Director, Executive Office for U.S. Attorneys

Alternate Members

John R. Shaffer, Director, Budget Staff, Justice Management Division
Thomas J. Stanton, Director and Counsel, Executive Office for U.S. Trustees

Performance Review Board #6

Tax Division; Land and Natural Resources Division.

Principal Members

Malcolm E. Arnold (Board Chair), Comptroller, Office of Management, Immigration and Naturalization Service
Gerald M. Farkas, Association Commissioner, UNICOR, Bureau of Prisons
Mary E. Mann, Special Litigation Counsel, Civil Rights Division

Alternate Members

Stewart T. B. Oneglia, Chief, Coordination and Review Section, Civil Rights Division
John W. Poole, Jr., Chief, Special Litigation Section, Antitrust Division

Performance Review Board #7

Bureau of Prisons; Office of Justice Programs.

Principal Members

Edmond M. Haywood (Board Chair), Regional Director, Region III (Philadelphia), Community Relations Service
Delia B. Combs, Assistant Commissioner, Refugee, Asylum and Parole, Office of Examinations, Immigration and Naturalization Service
Richard A. Levie, Special Litigation Counsel, Civil Division

Alternate Members

Paul W. Schmidt, Deputy General Counsel, Office of the General Counsel, Immigration and Naturalization Service
Steven Shapiro, Chief, Civil Trial Section, Southern Region, Tax Division
Charles T. Myers, Director, Regulatory and Legislative Affairs Staff, Civil Division
Richard L. DeHaan, Director, Office of Administration and Review, Executive Office for U.S. Attorneys
James A. Shealey, Assistant Director for Financial Management, U.S. Marshals Service.

[FR Doc. 85-15299 Filed 6-25-85; 8:45 am]
BILLING CODE 4410-01-M

MERIT SYSTEMS PROTECTION BOARD

Prohibited Personnel Practice; Issuance of Orders Regarding Regulation Review

AGENCY: Merit Systems Protection Board.

ACTION: Notice of Order.

SUMMARY: 5 U.S.C. 1205(e) authorizes the Board to review rules and regulations issued by the Office of Personnel Management (OPM), and their implementation by other Federal agencies in order to determine if they have required or would require any federal employee to commit a prohibited personnel practice in violation of 5 U.S.C. 2302(b). The Government Accountability Project has petitioned the Board pursuant to 5 U.S.C. 1205(e)(1)(B) to review the implementation of a regulation promulgated by the United States Department of Agriculture at 7 CFR 0.735-11(a)(6). After considering the initial request, the Board has determined that the petition shall be denied.

FOR FURTHER INFORMATION CONTACT: Bruce Moyer, Office of General Counsel, Merit Systems Protection Board, 1120 Vermont Avenue, NW., Washington, D.C. 20419, (202) 653-7171.

SUPPLEMENTARY INFORMATION: 7 CFR 0.735-11(a)(6) repeats the language of 5 CFR 735.201(a)(f) which was promulgated by OPM September 4, 1968, and which prohibits employee actions "affecting adversely the confidence of the public in the integrity of the Government."

Dated: June 20, 1985.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 85-15267 Filed 6-25-85; 8:45 am]
BILLING CODE 7400-01-M

Prohibited Personnel Practices; Issuance of Orders Regarding Regulation Review

AGENCY: Merit Systems Protection Board.

ACTION: Notice of order.

SUMMARY: 5 U.S.C. 1205(e) authorizes the Board to review rules and regulations issued by the Office of Personnel Management (OPM), and their implementation by other Federal agencies in order to determine if they have required or would require any Federal employee to commit a prohibited personnel practice in violation of 5 U.S.C. 2302(b). Henry M. Sarchet has petitioned the Board pursuant to 5 U.S.C. 1205(e)(1)(B), to review the implementation of 5 CFR Part 771 by the Marine Corps. After considering the initial request, the Board has determined that the petition shall be denied.

FOR FURTHER INFORMATION CONTACT: Stephanie Conley, Office of General Counsel, Merit Systems Protection Board, 1120 Vermont Avenue NW., Washington, D.C. 20419, (202) 653-7171.

SUPPLEMENTARY INFORMATION: 5 CFR Part 771, which was issued by OPM January 2, 1980, sets forth the regulations under which covered agencies shall establish an agency administrative grievance system.

Dated: June 20, 1985.

Herbert E. Ellingwood,

Chairman.

[FR Doc. 85-15266 Filed 6-25-85; 8:45 am]
BILLING CODE 7400-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[85-40]

Government-owned Inventions; Availability for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly foreign licensing

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $6.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the patent application copies sold to avoid premature disclosure.

DATE: June 26, 1985.

FOR FURTHER INFORMATION CONTACT: National Aeronautics and Space Administration, John G. Mannix, Director of Patent Licensing, Code GP, Washington, DC. 20546, telephone (202) 453-2430.

Patent Application 598,777: Metal (11) 4,4',4",4"'-Phthalocyanine Tetraamines as Curing Agents for Epoxy Resins; filed April 11, 1984.

Patent Application 641,143: Fire Resistant Phosphorus Containing Compounds, Polyimides and Copolyimides; filed August 16, 1984.

Patent Application 641,153: Fire Resistant Polymers Based on 1-[Diorganooxyphosphonyl)methyl]-2,4- and -2,6-Diamino Benzenes; filed August 16, 1984.

Patent Application 641,147: Fire and Heat Resistant Laminating Resins Based on Maleimido and Citraconimido Substituted 1-[Diorganooxyphosphonyl]methyl]-2,4- and -2,6-Diamino Benzenes; filed August 16, 1984.

Patent Application 648,185: A Process to Produce Fine Line Metallic Collection

Patterns on Semiconductor Devices; filed December 20, 1984.
Patent Application 649,330: Oxidation Protection Coatings for Polymers; filed September 11, 1984.
Patent Application 657,309: Augular Measurement System; filed October 3, 1984.
Patent Application 657,310: Emitted Vibration Measurement Device and Method; filed October 3, 1984.
Patent Application 659,474: Solid Sorbent Air Sampler; filed October 10, 1984.
Patent Application 659,475: Textured Carbon Surfaces on Copper; filed October 10, 1984.
Patent Application 661,481: Ion-Beam Nitriding of Steels; filed October 16, 1984.
Patent Application 674,395: Total Immersion Crystal Growth; filed November 21, 1984.
Patent Application 681,041: Load Positioning System with Gravity Compensation; filed December 12, 1984.
Patent Application 683,101: Comparator with Noise Suppression; filed December 18, 1984.
Patent Application 683,111: Method and Apparatus for Measuring Minority Carrier Lifetime in a Direct Band-Gap Semiconductor; filed December 18, 1984.
Patent Application 684,190: Elbow and Knee Joint for Hard Space Suits and the Like; filed December 20, 1984.
Patent Application 684,186: Liquid Thickness Gauge; filed December 20, 1984.
Patent Application 684,192: Shoulder and Hip Joint for Hard Space Suits and the Like; filed December 12, 1984.
Patent Application 684,193: Torso Sizing Ring Construction for Hard Space Suits; filed December 20, 1984.
Patent Application 684,194: Adjustable Indicating Device for Load Position; filed December 20, 1984.
Patent Application 690,284: Low Stress Semiconductor Insulator Interface for Cryogenic Device Applications; filed January 10, 1985.
Patent Application 690,273: Low Loss Injector for Liquid Propellant Rocket Engines; filed January 10, 1985.
Patent Application 690,274: Remote Pivot Decoupler Pylon: Wing/Store Flutter Suppressor; filed January 10, 1985.
Patent Application 692,745: Project Lens Scanning Laser Velocimeter System; filed January 18, 1985.
Patent Application 692,801: Positive Locking Device for Tube Fittings; filed January 18, 1985.
Patent Application 698,641: Wide Angle Flat Field Telescope; filed February 5, 1985.
Patent Application 700,255: Precision Tunable Resonant Microwave Cavity; filed February 11, 1985.
Patent Application 706,681: A Two-Axis, Self-Nulling Skin Friction Balance; filed February 28, 1985.
Patent Application 709,257: Double Reference Pulsed Phase Locked Loop (DRP^2L^2); filed March 7, 1985.

Dated: June 17, 1985.

Deputy General Counsel.

John E. O'Brien,

[FR Doc. 85-15291 Filed 6-25-85; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules

AGENCY: Office of Records Administration, National Archives and Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes a notice at least once monthly of all agency records schedules (requests for records disposition authority) which include records proposed for disposal. The first notice was published on April 1, 1985. Records schedules identify records of continuing value for eventual preservation in the National Archives of the United States and authorize agencies to dispose of records of temporary value. NARA invites public comment on proposed records disposals as required by 44 U.S.C. 3303a(a).

DATE: Comments must be received in writing on or before August 26, 1985.

ADDRESS: Address comments and requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requestors must cite the control number assigned to each schedule when requesting a copy. The control number appears in parenthesis immediately after the title of the requesting agency. Copies of the schedules are also available for public inspection during the comment period at the Office of the Federal Register, Room 8401, 1100 L Street NW., Washington, DC.

SUPPLEMENTARY INFORMATION: Each year U.S. government agencies create billions of records in the form of paper, film, magnetic tape, and other media. In order to control the accumulation of records, Federal agencies prepare records schedules which specify when the agency no longer needs them for current business and what happens to the records after the expiration of this period. Destruction of the records requires the approval of the Archivist of the United States, which is based on a thorough study of their potential value for future use. A few schedules are comprehensive; they list all the records of an agency or one of its major subdivisions. Most schedules cover only one office, or one program, or a few series of records, and many are updates of previously approved schedules.

The monthly public notice identifies the Federal agencies and their appropriate subdivisions requesting disposition authority, includes a control number assigned to each schedule, and briefly identifies the records scheduled for disposal. The complete records schedule contains additional information about the records and their disposition. Additional information about the disposition process will be furnished with each copy of a records schedule requested.

Schedules Pending Approval

1. *Department of the Army,* Office of the Adjutant General (NC1-AU-85-59). Overseas real estate management files, including leases, licenses, reports, bids, and related records.

2. *Interstate Commerce Commission* (NC1-134-83-8). Administrative and other routine correspondence, working files, copies of Congressional statements and testimony, and reference materials from the Office of the Chairman and various supporting offices.

3. *National Archives and Records Administration:* records accessioned from the Department of the Navy, Boston Naval Shipyard (NC2-181-85-1). Duplicate copies of correspondence, routine reports and log books, 1856-1937, relating to civilian employees, supplies, and contracts.

4. *National Archives and Records Administration:* records accessioned from the Department of the Navy, Boston Naval Shipyard, Department of Steam Engineering (NC2-181-85-2). Routine reports of work accomplished, employee pay records, and records relating to the use of supplies and equipment.

5. *Peace Corps,* Office of Personnel Management (NC1-362-84-2). Automated personnel management information system, used to generate monthly reports to the U.S. Office of Personnel Management for the Central Personnel Data File and other personnel information.

6. Department of the Treasury, Internal Revenue Service, Disclosure and Security Division (NC1-58-85-8). Records relating to the administration of statutory and procedural disclosure provisions.

7. *United States General Accounting Office*, Office of Information Resources Management (NC1-217-85-4). Records relating to ADP systems and services.

Dated: June 20, 1985.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 85-15334 Filed 6-25-85; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL SCIENCE FOUNDATION

Availability of Draft Environmental Impact Statement; Ocean Drilling Program

In accordance with the National Environmental Policy Act of 1969 and the Council on Environmental Quality Regulations of 1978 (40 CFR Parts 1500-1508), the National Science Foundation has prepared a Draft Environmental Impact Statement (DEIS) on the Ocean Drilling Program. The Foundation hereby requests comments on this DEIS within 90 days of this announcement.

The Ocean Drilling Program expands efforts in scientific deep-ocean drilling and research to explore the earth's crust beneath the oceans. The decade-long program is global in scope and plans call for drilling in high latitudes, including Antarctic Seas, and drilling in continental margins.

NSF has an existing EIS on the International Phase of Ocean Drilling (IPOD) of the Deep Sea Drilling Project. Initial drilling operations of ODP do not differ significantly from those carried out in IPOD and addressed in the IPOD EIS. The more complicated aspects of riser drilling and of drilling in high latitudes and Antarctic Seas were not covered in that EIS, and it is these aspects proposed for future drilling, that have been specifically addressed. Drilling in the Weddell Sea is currently scheduled to take place between December 1986 and February 1987. No riser drilling is planned for the foreseeable future.

Possible alternatives to the proposed action are: Delay or exclude implementation of drilling plans pertaining to selective sites, exclude drilling in sensitive areas, and delay or exclude implementation of riser drilling.

Copies of the DEIS are available from: Oceanographic Centers and Facilities Section, Division of Ocean Sciences, National Science Foundation, 1800 "G" Street, N.W., Washington, D.C. 20550, Attention: Thomas N. Cooley. All comments on the DEIS should be submitted by September 27, 1985 to the above address.

Dated at Washington, D.C. on June 19, 1985 for the National Science Foundation.

Albet L. Bridgewater,

Acting Assistant Director for Astronomical, Atmospheric, Earth and Ocean Sciences.

[FR Doc. 85-15344 Filed 6-25-85; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Reports, Availability of

Reports Issued:

Railroad Accident Report: Head on Collision of Burlington Northern Railroad Freight Trains Extra 6714 West and Extra 7820 East; Wiggins, Colorado, April 13, 1984 and Rear-End Collision of Burlington Northern Railroad Freight Trains Extra 7843 East and Extra ATSF 8112 East Near Newcastle, Wyoming April 22, 1984. (NTSB/RAR-85/04) (NTIS Order No. PB85-916304.)

Railroad Accident Report: Head-on Collision of Burlington Northern Railroad Freight Trains Extra 6760 West and Extra 7907 East Near Motley, Minnesota, June 14, 1984. (NTSB/RAR-85/06) (NTIS Order No. PB85-916306.)

Marine Accident Report: Collision of the U.S. Towboat Ann Brent and tow with the Greek Tankship Mantinia, Mile 150, Lower Mississippi River, June 11, 1984. (NTSB/MAR-85/04) (NTIS Order No. PB85-916404.)

Aircraft Accident Report: Zantop International Airlines, Inc., Lockheed L-188A Electra, Chalkhill, Pennsylvania, May 30, 1984. (NTSB/AAR-85/04) (NTIS Order No. PB85-910404.)

Aircraft Accident Report: United Airlines Flight 663 Boeing 727-222, N7647U, Denver, Colorado, May 31, 1984. (NTSB/AAR-85/05) (NTIS Order No. PB85-910405.)

Aircraft Accident Reports: Brief Format, U.S. Civil and Foreign Aviation Issue Number 2 of 1983 Accidents. (NTSB/AAB-85/03) (NTIS Order No. PB85-916903.)

Aircraft Accident Reports: Brief Format, U.S. Civil and Foreign Aviation Issue Number 1 of 1983 Accidents. (NTSB/AAB-85/03) (NTIS Order No. PB85-916902.)

Aircraft Accident Reports: Brief Format, U.S. Civil and Foreign Aviation Issue Number 3 of 1983 Accidents. (NTSB/AAB-85/04) (NTIS Order No. PB85-916904.)

Aircraft Accident Reports: Brief Format, U.S. Civil and Foreign Aviation Issue Number 17 of 1982 Accidents. (NTSB/AAB-85/01) (NTIS Order No. PB85-916901.)

Note.—Reports may be ordered from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, for a fee covering the cost of printing, mailing, handling, and maintenance. For information on reports call 703-487-4650 and to order subscriptions to reports call 703-487-4630.

Catherine T. Kaputa,

Federal Register Liaison Officer.

June 17, 1985.

[FR Doc. 85-15313 Filed 6-25-85; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-302]

Florida Power Corp. et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-72, issued to Florida Power Corporation (the licensee), for operation of the Crystal River Unit No. 3 Nuclear Generating Plant located in Citrus County, Florida.

The proposed amendment would modify the Technical Specifications (TSs) to revise the Reactor Coolant System pressure/temperature curves in TS 3.4.9.1 to take into consideration the analysis of the previously removed Reactor Vessel Surveillance Capsule B and changes in the licensee's fuel management philosophy. These revisions will extend the applicability of the curves from 5 effective full power years (EFPY) to 8 EFPY and will assure compliance with 10 CFR 50, Appendix G. In addition, the proposed amendment would delete the Criticality Limit Curve on Figure 3.4-2 and remove from TS 4.4.9.1.2 the Reactor Vessel Material Irradiation Surveillance Schedule (Table 4.4-5).

These revisions to the TSs would be made in response to the licensee's application for amendment dated February 14, 1985, as supplemented by letter dated June 19, 1985.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended

(the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The revised pressure/temperature limits were established in accordance with the requirements of 10 CFR Part 50, Appendix G, and correspond to the design safety analysis for avoiding excessive stress. Extending the limits from 5 EFPY to 8 EFPY is an additional limitation not presently included in the TSs. The Criticality Limit Curve implied that the reactor could be made critical at temperatures lower than that permitted by TS 3.1.1.4, and therefore removal of the curve removes inconsistency from the TSs. Deletion of the capsule removal schedule from the TSs in favor of committing to the integrated schedule for all Babcock & Wilcox plants in conformance with 10 CFR Part 50, Appendix H, approved by the NRC in a separate action, is consistent with recent NRC direction and with the regulations.

Based on the above, the Commission's staff has determined that these changes would not significantly increase the probability or consequences of an accident previously evaluated, would not create the possibility of a new or different accident from any accident previously evaluated, and would not involve a reduction in a margin of safety. The staff proposes, therefore, to determine that the proposed amendment does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

By July 26, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date

petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to R. W. Neiser, Senior Vice President and General Counsel, Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.

Dated at Bethesda, Maryland, this 21st day of June.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 85–15366 Filed 6–25–85; 8:45 am]

BILLING CODE 7590–01–M

Florida Power Corp. et al.; Environmental Assessment and Finding of No Significant Impact

[Docket No. 50–302]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from a requirement of 10 CFR 50.44(c)(3)(iii) to Florida Power Corporation (the licensee), for the Crystal River Unit No. 3 Nuclear Generating Plant, located in Citrus County, Florida.

Environmental Assessment

Identification of Proposed Action: The exemption would permit the licensee not to install a reactor vessel head vent as required by 10 CFR 50.44(c)(3) (iii).

The exemption is responsive to the licensee's application for exemption dated October 22, 1984.

The Need for the Proposed Action: The licensee has performed tests using the Once-Through Integral System (OTIS) facility. The purpose of these tests was to determine if reactor core cooldown can be maintained in the absence of a vessel head vent to release noncondensible gases from the vessel during an accident. Based on results of the OTIS tests, the licensee concluded that a reactor vessel head vent is not needed since other high point vents can be used to release gases.

Furthermore, the licensee has committed to implement appropriate emergency procedures to assure reactor core cooling in the absence of a vessel head vent.

Environmental Impacts of the Proposed Action: The proposed exemption, as supported by the licensee's test results and commitment, will provide assurance of reactor core cooling that is equivalent to that required by 10 CFR 50.44(c)(3)(iii) such that there is no increase in the risk of accidents at this facility. The probability of accidents will not be increased and the post-accident radiological releases will not be greater than previously determined, nor will the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative Use of Resources: This action involves no use of resources not previously considered in the Final Environmental Statement (construction permit and operating license) for the Crystal River Unit No. 3 Nuclear Generating Plant.

Agencies and Persons Consulted: The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for the exemption dated October 22, 1984, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.

Dated at Bethesda, Maryland, this 21st day of June.

For the Nuclear Regulatory Commission.

Gus C. Lainas,

Assistant Director for Operating Reactors, Division of Licensing.

[FR Doc. 85–15365 Filed 6–25–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 70–3011]

Lower Alloways Creek Township, NJ; Finding of No Significant Impact issuance of Special Nuclear Material License No. SNM–1953 Public Service Electric and Gas Company

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of Special Nuclear Material License No. SNM–1953 to permit the receipt, possession, inspection, and storage of unirradiated nuclear fuel assemblies at the Hope Creek Generating Station in Lower Alloways Creek Township, New Jersey. The unirradiated fuel assemblies will be for eventual use in the Hope Creek Generating Station once its operating license is issued.

The Commission's division of Fuel Cycle and Material Safety has prepared an Environmental Assessment related to the issuance of special Nuclear Material License No. SNM–1953. On the basis of this assessment, the Commission has concluded that the environmental impact created by the proposed licensing action would not be significant and does not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate. The Environmental Assessment is available for public inspection and copying at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. Copies of the Environmental Assessment may be obtained by calling (301) 427–4510 or by writing to the Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Silver Spring, Maryland this 19th day of June 1985.

For the Nuclear Regulatory Commission
W.T. Crow,
Acting Chief, Uranium Fuel Licensing Branch Division of Fuel Cycle and Material Safety, NMSS.
[FR Doc. 85-15364 Filed 6-25-85; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-223-SP, ASLBP No. 85-509-02 SP]

University of Lowell Training & Research Reactor Order

June 20, 1985.

Setting Prehearing Conference

On February 14, 1984, the University of Lowell (Licensee) timely filed an application for renewal of its Facility Operating License No. R-125 for an additional 30 years. The license is for the operation of a training and research reactor located on the campus of the university in Lowell, Masachusetts.

On March 29, 1985, the NRC published a notice in the **Federal Register** offering an opportunity to the Licensee and any other person whose interest might be affected by the renewal of the license to file a written petition for leave to intervene by April 29, 1985. 50 FR 12668.

By petition for leave to intervene, dated April 29, 1985, filed with the NRC, John F. Doherty seeks to intervene in this proceeding. Mr. Doherty claims to reside in Brighton, Massachusetts, within approximately 25 miles of the reactor's site, and asserts that he has a health and safety interest in the licensing of the reactor. No other petitions for leave to intervene have been received.

On May 6, 1985, this Atomic Safety and Licensing Board was established to rule on petitions for leave to intervene and to preside over the proceeding in the event that a hearing is ordered. The Board is comprised of the following Administrative Judges: Herbert Grossman, Chairman; Richard F. Cole and Ernest F. Hill. 50 FR 19827 (May 10, 1985).

On May 20, 1985, the NRC Staff filed a response to Mr. Doherty's petition to intervene in which it concludes that Mr. Doherty has not established standing to intervene. Among other things, the Staff submits that a residence 25 miles from a pool-type non-power training and research reactor of 1 megawatt thermal, is not sufficient geographic proximity to the reactor to constitute a health or safety interest in the reactor on the part of the petitioner. The Licensee, the University of Lowell, in a belated response, adopts the Staff's position and urges that the petition to intervene be denied and the proceeding dismissed.

The Board will conduct a prehearing conference beginning at 9:30 a.m. on August 1, 1985 and continuing through August 2, 1985, if necessary, at the JFK Federal Building, Room E-226, Boston, Massachusetts 02203. All prospective parties to this proceeding, or their respective counsel, are directed to attend. At the prehearing conference the parties should be prepared to discuss all matters relating to standing of the parties, specific issues that might be considered at an evidentiary hearing, and possible further scheduling in the proceeding.

Petitioner Doherty may file a supplement to his petition to intervene not later than 15 days prior to the prehearing conference, which shall include a list of specific contentions sought to be litigated in this proceeding. He should include in that supplement any written response he may have to Staff's objections to his admission as an intervener.

The public is invited to attend the prehearing conference. Oral limited appearance statements will be heard at the conference if time permits. Written limited appearance statements may be submitted to the Board at the conference or be mailed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Bethesda, Maryland, June 20, 1985.
By order of the Board.
For the Atomic Safety and Licensing Board.
Herbert Grossman,
Chairman, Administrotive Judge.
[FR Doc. 85-15367 Filed 6-25-85; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Generalized System of Preferences (GSP) Subcommittee Notice of Results of Reviews of Petitions Requesting Changes in the List of Articles Eligible for Duty-Free Treatment Under the GSP

This publication provides the disposition of the petitions accepted for review in the 1984 annual product review and other petitions as listed below. These petitions requested changes in the list of imported articles eligible for duty-free treatment under the U.S. Generalized System of Preferences (GSP). The GSP is provided for in the Trade Act of 1974 (19 U.S.C. 2461-2465). The review was conducted pursuant to regulations codified at 15 CFR 2007. Results of the review will be implemented pursuant to Executive Order 12519 of June 13, 1985 (50 FR 25037). Changes resulting from petitions will take effect July 2, 1985. All other changes will take effect on July 1, 1985. All communications with respect to this notice should be addressed to the Executive Director, Generalized System of Preferences, Office of the United States Trade Representative, Room 316, 600 17th Street, NW, Washington, D.C. 20506. Questions may be directed to any member of the GSP Information Center at (202) 395-6971.

Donald M. Phillips,
Chairman, Trade Policy Staff Committee.

PETITIONS ACCEPTED FOR REVIEW

Case No.	TSUS or TSUSA [1]	Article	Petitioner	Action taken
A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences				
84-1	141.30	Cabbage, prepared or preserved	Government of Thailand	Granted.
84-2	460.40	Helicitropin	Biddle Sawyer Corp., Keystone, New Jersey	Petition withdrawn.
84-3	685.27	Citizens Band (CB) radio transceivers (except hand held).	General Electric Company, Syracuse, N.Y.	Granted.
84-4	720.34	Clock cases and parts thereof	Government of Colombia	Do.
84-5	772.3095pt	Infant pants of rubber or plastic	Government of Peru	Do.
B. Petitions to remove products from the list of eligible articles for the Generalized System of Preferences				
84-6	408.22pt	Trifluralin	Eli Lilly & Co., Indianapolis, IN	Granted.
C. Petitions to remove duty-free status from a beneficiary developing country for a product on the list of eligible articles for the Generalized System of Preferences [2]				
84-7	413.24 (Korea)	Saccharin	Sherwin-Williams Company	Accepted, graduated Korea.
84-8	416.4540pt. (Israel)	Hydrobromic acid	U.S. Bromine Alliance	Petition denied.

PETITIONS ACCEPTED FOR REVIEW—Continued

Case No.	TSUS or TSUSA [1]	Article	Petitioner	Action taken
84-9	417.4440pt. (Israel)	Ammonium bromide	do	Accepted, graduated Israel.
84-10	418.32pt. (Israel)	Calcium bromide	do	Do.
84-11	420.02 (Israel)	Potassium bromide	do	Petition denied.
84-12	420.3605 (Israel)	do	do	Do.
84-13	421.6280pt. (Israel)	Sodium bromate	do	Do.
84-14	422.78pt. (Israel)	Zinc bromide	do	Do.
84-15	425.24pt. (Israel)	Ethylenebis-bromonobornane	do	Do.
84-17	429.4830pt. (Israel)	Bromotrifluoromethane/ Chlorobromodifluoromethane.	do	Accepted, graduated Israel.
84-18	429.4860pt. (Israel)	Acetylene tetrabromide	do	Do.
84-19	429.9590pt. (Israel)	Dibromoneopentylglycol	do	Petition denied.
84-20	432.25pt. (Israel)	Bromine mixtures	do	Do.
84-21	511.6120 (Mexico)	Block and brick	National Concrete Masonry Association; Best Block and Pipe and others.	Accepted, graduated Mexico.
84-22	646.92 (Hong Kong, Korea, Taiwan)	Locks	Builders Hardware Mfg. Association	Accepted for Taiwan, petition denied for Hong Kong and Korea.
84-23	653.00 (Korea)	Steel building parts	American Institute of Steel Construction, Inc.	Accepted, graduated Korea.
84-24	654.25 (Taiwan)	Brass sanitary ware, nspf	Plumbing Manufactures Institute	Petition denied.
84-25	657.35 (Taiwan)	Brass plumbing goods, nspf	do	Accepted, graduated Taiwan.
84-26	680.14 (Taiwan)	Copper valves and parts	do	Do.
84-27	735.2020 (Hong Kong)	Puzzles and parts, thereof	Lauri, Inc.	Petition denied.
84-28	771.41 (Taiwan)	Acrylic sheet	Rohm & Haas	Accepted, graduated Taiwan.
84-29	771.45 (Taiwan)	Acrylic sheet	Rohm & Haas	Do.

[1] Tariff Schedules of the United States annotated (19 U.S.C. 1202).
[2] Country or countries named are those beneficiary countries specified by the petitioner.

[FR Doc. 85-15321 Filed 6-25-85; 8:45 am]
BILLING CODE 3190-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) Collection title: Appeal Under the Railroad Retirement Act
(2) Form(s) submitted: HA-1
(3) Type of request: Revision of a currently approved collection
(4) Frequency of use: On occasion
(5) Respondents: Individuals or households
(6) Annual responses: 810
(7) Annual reporting hours: 268
(8) Collection description: Under Section 7(b)(3) of the RRA, a person aggrieved by a decision on his or her application for an annuity or other benefit has the right to appeal to the Board. The collection will provide the means for the appeals action.

Additional Information or Comments

Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Judy McIntosh (202-395-6880), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Pauline Lohens,
Director of Information and Data Management.

[FR Doc. 85-15305 Filed 6-25-85; 8:45 am]
BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-22159; File No. SR-NASD-85-16]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to NASDAQ Trade Reporting Rules

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 6, 1985, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organzation. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule changes add a new subsection to Schedules D and G of the NASD By-Laws that will require members to indicate whether a transaction involving a NASDAQ/NMS stock or a listed stock traded off-board is a buy, sell, or cross.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Rule Change

The NASD proposes to require that members reporting a transaction in a NASDAQ/NMS stock or in a listed stock traded off-board indicate in their reports whether the transaction is a buy, sell, or cross. The rule changes are being implemented as part of an enhanced automated NASDAQ equity audit trail. The availability of more data through the automated systems will provide more effective and efficient surveillance for detecting and investigating equity trading problems and abuses.

These changes are consistent with section 15A(b)(6) of the Securities Exchange Act, which requires that NASD rules prevent fraudulent and manipulative acts and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association believes that the proposed rule changes do not impose any burden on competition not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments on the proposed rule changes were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing of Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (1) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 522, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Wahington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 17, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 19, 1985.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-15306 Filed 6-25-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Computer Security and Education Advisory Council; Public Meeting

The U.S. Small business Administration's Computer Security and Education Advisory Council will hold a public meeting at 9:00 a.m. on Thursday, July 18, 1985, in the Treasury Room, at the J.W. Marriott Hotel, 1331 Pennsylvania Avenue NW., Washington, D.C. 20004, to discuss such matters as may be presented by Members, and to allow three computer research experts in the field of computer security to share their experience and knowledge with the Council, and offer perceptions and recommendations on the extent of these problems in the small business community.

For further information, write or call John J. Sweeney, Deputy Associate Administrator, U.S. Small Business Administration, 1441 L Street NW., Room 317, Washington, D.C. 20416: (202) 653-6330.

Peter S. Browne,

Chairman, Computer Security Advisory and Education Council.

[FR Doc. 85-15288 Filed 6-25-85; 8:45 am]

BILLING CODE 8025-01-M

Small Business Investment Co.; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.302 (a) and (b) limit the maximum annual Cost of Money (as defined in 13 CFR 107.3) that may be imposed upon a Small Concern in connection with Financing by means of Loans or through the purchase of Debt Securities. The cited regulation incorporates the term "FFB Rate", which is defined elsewhere in 13 CFR 107.3 in terms that require SBA to publish, from time to time, the rate charged by the Federal Financing Bank on ten-year debentures sold by Licensees to the Bank. Notice of this rate is generally published each month.

Accordingly, Licensees are hereby notified that effective July 1, 1985, and until further notice, the FFB Rate to be used for computation of maximum cost of money pursuant to 13 CFR 107.302 (a) and (b) is 10.095% per annum.

13 CFR 107.302 does not supersede or preempt any applicable law imposing an interest ceiling lower than the ceiling imposed by its own terms. Attention is directed to section 308(i) of the Small Business Investment Act, as amended by section 524 of Pub. L. 96-221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forefeiture and penalty provisions.

Dated: June 18, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-15289 Filed 6-25-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Order Adjusting the Standard Foreign Fare Level Index

The International Air Transportation Competition Act (IATCA), P.L. 96-192, requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile. Order 80-2-69 established the first interim SFFL and Order 85-4-53 established the currently effective two-month SFFL applicable through May 31, 1985.

In establishing the SFFL for the two-month period starting June 1, 1985, we have projected nonfuel costs based on the year ended December 31, 1984 data, and have determined fuel prices on the basis of experienced monthly fuel cost levels as reported to the Department.

By Order 85-6-55 fares may be increased by the following adjustment factors over the October 1, 1979, level:

Atlantic, 1.1777
Latin America, 1.2873
Pacific, 1.2730
Canada, 1.1778

Copies of the Department's order are available from the DOT Distribution Section, Room 4107, 400 7th Street, S.W., Washington, D.C. 20590. Persons outside the metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: John D. Coakley, (202) 472-5492.

By the Department of Transportation: June 20, 1985.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 85-15319 Filed 6-25-85; 8:45 am]

BILLING CODE 4910-62-M

[Docket No. 43006]

Pan Aviation, Inc. Fitness Investigation; Notice Canceling Hearing and Scheduling Second Prehearing Conference

Notice is hereby given that the hearing in the above-entitled proceeding scheduled on July 2, 1985, is cancelled. A second prehearing conference is scheduled to be held on July 2, 1985, at 10:00 a.m. (local time) in Room 5332, Nassif Building, 400 7th Street, SW., Washington, D.C. 20590, before the undersigned administrative law judge.

Dated at Washington, D.C., June 20, 1985.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 85-15320 Filed 6-25-85; 8:45 am]

BILLING CODE 4910-62-M

National Highway Traffic Safety Administration

[Docket No. IP85-4; Notice 2]

Avon Tyres Limited; Denial of Petition for Determination of Inconsequential Noncompliance

This notice denies the petition by Avon Tyres Limited of Wiltshire, England, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a noncompliance with 49 CFR 571.119, Motor Vehicle Safety Standard 119, *New Pneumatic Tires for Vehicles Other Than Passenger Cars.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on February 13, 1985, and an opportunity afforded for comment (50 FR 6092).

Avon manfactured approximately 600 Avon Radial MKII truck tires, size 10.00R20, in molds that were not specifically labeled for the American market. These tires, labeled with European type markings, were shipped to a tire dealer in the United States for sale to the general public.

Specifically, the tires were not marked with five items of information required by paragraph S6.5 of Standard No. 119. These were the tire identification number required by 49 CFR Part 574, the maximum load rating and corresponding inflation pressure, the actual number of plies and cord material in the sidewall, and if different, in the tread area, the words "tube type," and the letter designating the Load Range.

Avon Tyres Limited argued that the noncompliances were inconsequential because they are unrelated to any safety or performance characteristics of the tires and do not result in any wrong or misleading information being conveyed to the purchaser. It stated that all the necessary information is contained in the markings that do appear on the tire sidewall, which can be readily understood by anyone familiar with such labeling. For example, the tires are labeled with the International Standards Organization Service Index as part of the tire size designation, i.e., 146/143L, which indicates a maximum load of 3,000-kg. when used in dual formation provided the operating speed does not exceed 120 km/hr. The tires are labeled "16 ply rating" which is equivalent to Load Range H and are designed to carry the highest permitted load permitted for this tire size designation. Therefore, argued Avon, there is no possibility of tires being overloaded in service due to lack of understanding of sidewall markings. The tires are not labeled "tube type" and this does not create a safety hazard because generally all 20-inch diameter tires are for use with tubes and mounted on multi-piece rims and could not be mounted on tubeless type rims. The lack of the tire identificaiton number, the petitioner claimed, was inconsequential as the tires are clearly marked with the manufacturer's name "Avon" and "Made in England" and also the tire size, 10.00R20, is in clear figures. The absence of the number of plies and the material used was deemed inconsequential as these tires are designed for the maximum service conditions allowed for the tire size designation 10.00R20 encountered in the United States.

Michelin Tire Corporation, the sole commenter on the petition, opposed it, stating that the tire identification number is the foundation of product recall machinery, its absence cannot be said to have no effect upon safety, and that its ommission could result in the importation of nonconforming tires which could not be traced to any manufacturer or importer.

After reviewing the Avon petition, the agency has concluded that the only safety information apparently provided is the size of the tire. No other instance of a labeling failure of the magnitude represented by the petition has come to NHTSA's attention. Information provided by the vehicle manufacturer on the truck is in domestic terminology (i.e., load in pounds, inflation pressures in pounds per square inch) whereas the Avon tires use European terminology such as load index, speed symbol, and ECE type approval. An American consumer is unlikely to be familiar with this terminology or its relationship to such safety information as is provided by American manufacturers.

This terminology could also cause confusion to State inspection authorities or inspectors of the Bureau of Motor Carrier Safety, for example, resulting in rejection of the equipment. It is not likely that the markings "146/143L" will be understood as signifying a maximum load of 3,000 kg single axle or 2725 kg dual axle for speeds not exceeding 75 mph. Also, tire registration cannot be effected by computer banks in the absence of a tire registration number meeting Federal requirements.

In summary, the omitted information has a relationship to safety that cannot be deemed inconsequential. Petitioner has failed to meet its burden of persusasion that the noncompliance is inconsequential as it relates to motor vehicle safety and its petition is denied. The agency does not view this as a noncompliance that can be remedied through repair. Rebranding is deemed not in the interest of safety because of the possible cord damage that might ensue. A paper label detachable at time of sale would not provide information in a permanent form that should remain available to the tire user over the life of the tire. The agency believes that Avon should export the noncomplying tires, destroy them, or abandon them to the United States.

(Sec. 102, Publ. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on June 20, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 8515286 Filed 6-25-85; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Availability of the Federal Radionavigation Plan

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of Availability for Comment.

SUMMARY: The Federal Radionavigation Plan is undergoing its next update process. The Federal Radionavigation Plan is a joint Department of Defense (DOD)/Department of Transportation (DOT) management planning document for those radionavigation systems that are used in common by the military and civil communities. It supports planning, programming, and implementation of air, maritime, and terrestrial radionavigation systems. The Plan is the official source of common civil/military radionavigation policy and planning for both the DOD and the DOT. It also contains the joint DOD/DOT recommendation, developed in 1984, on the future radionavigation system mix.

This notice invites interested parties to comment on the current version of the Plan which is dated 1984. All comments which are received by June 30, 1986, will be considered in preparing the revised Federal Radionavigation Plan to be issued in late 1986.

DATE: Comments must be received by June 30, 1986.

ADDRESS: Comments for consideration by the DOT Navigation Working Group should be forwarded to Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, 20590. Comments should be submitted in two copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday. Telephone (202) 426-3148.

FOR FURTHER INFORMATION CONTACT: David Scull, Office of Program Management and Administration, Office of Budget and Programs, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590 (202) 462-9520.

SUPPLEMENTARY INFORMATION: A copy of the Federal Radionavigation Plan is available for inspection in the Dockets Branch.

Additionally, copies are available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, and only from that source. The stock number and prices are as follows:

The Federal Radionavigation Plan ADA 151295

Paper Copy, $17.50

Microfiche, $4.50.

Issued in Washington, D.C., on June 19, 1985.

M. Cynthia Douglass,

Administrator.

[FR Doc. 85-15287 Filed 6-25-85; 8:45 am]

BILLING CODE 4910-60-M

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in May 1985. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
1862-X	DOT-E 1862	Greer Hydraulics, Inc., City of Commerce, CA.	49 CFR 173.302 (a) (1), 175.3	To authorize shipment of nitrogen in hydraulic accumulators. (Modes 1, 2, 3, 4.)
5206-P	DOT-E 5206	Douglas Explosives, Inc., Philipsburg, PA	49 CFR 173.114a	To become a party to Exemption 5206. (Mode 1.)
5600-X	DOT-E 5600	Amoco Oil Co., Whiting, IN	49CFR 175.3, Part 173	To authorize transport of flammable or nonflammable compressed gases, flammable or corrosive liquids presently authorized to be shipped in a DOT Specification 3A cylinder, to be shipped in a non-DOT specification cylinder made to DOT-3A specification with certain exceptions. (Modes 1, 2, 4.)
5600-X	DOT-E 5600	Genus, Material Sciences Division, San Marcos, CA.	49 CFR 175.3, Part 173	To authorize transport of flammable or nonflammable compressed gases, flammable or corrosive liquids presently authorized to be shipped in a DOT Specification 3A cylinder, to be shipped in a non-DOT specification cylinder made to DOT-3A specification with certain exceptions. (Modes 1, 2, 4.)
6126-X	DOT-E 6126	Rhone-Poulenc Inc., Monmouth Junction, NJ.	49 CFR 173.253 (a)	To authorize shipment of chloracetyl chloride in DOT Specification 6D/2S or 2SL composite packaging. (Modes 1, 3.)
6126-P	DOT-E 6126	Chemie Linz U.S. Inc., Fort Lee, NJ	49 CFR 173.253 (a)	To become a party to Exemption 6126. (Modes 1, 2.)
6126-X	DOT-E 6126	Dow Chemical Co., Midland, MI	49 kCFR 173.253 (a)	To authorize shipment of chloracetyl chloride in DOT Specification 6D/2S or 2SL composite packaging. (Modes 1, 3.)
6184-X	DOT-E 6184	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 173.318(a)(1)	To authorize use of non-DOT specification portable tanks, for transportation of a nonflammable gas. (Modes 1, 3.)
6557-X	DOT-E 6557	General Fire Extinguisher Corp., Northbrook, IL.	49 CFR 175.3, 178.35-4(c), 178.37-4(c), 178.50-4(c).	To authorize deviation from the requirements of the inspector's report for DOT Specification 3A, 3AA, and 4B cylinders, for shipment of certain nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
6774-X	DOT-E 6774	HR Textron Inc., Pacoima, CA	49 CFR 173.302(a)(2), 175.3	To authorize use of non-DOT specification cylinders complying with DOT Specification 3HT, with certain exceptions, for shipment of a nonflammable gas. (Modes 1, 4.)
6961-X	DOT-E 6961	Monsanto Co., St. Louis, MO	49 CFR 173.28(h)	To authorize shipment of spent cobalt and/or nickel catalyst, in reconditioned DOT Specification 37A steel drums. (Modes 1, 2, 3.)
7252-X	DOT-E 7252	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.93	To authorize transport of Pourvex and Tovex Extra in DOT Specification 17H metal drums. (Modes 1, 3.)
7719-X	DOT-E 7719	Turner Co., Sycamore, IL	49 CFR 173.304, 175.3, 178.65	To authorize cargo aircraft only as additional mode of transportation. (Modes 1, 2, 4.)
7835-X	DOT-E 7835	Union Carbide Corp., Danbury, CT	49 CFR 177.848, Part 107 Appen. B(1)	To authorize transport of compressed gas in cylinders bearing the flammable gas label, the oxidizer label, the flammable liquids label, the corrosive label or the poison gas and tank car tanks bearing the poison gas label. (Mode 1.)
7835-X	DOT-E 7835	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 177.848, Part 107 Appen. B(1)	To authorize use of steel pallet configuration for securing cylinders, during transportation. (Mode 1.)
8151-X	DOT-E 8151	Ropak West, Inc., La Mirada, CA	49 CFR 178.19, Part 173, Subparts, D, F	To authorize shipment of liquid hazardous materials, in non-DOT specification removable head polyethylene drums. (Modes 1, 2, 3.)
8152-X	DOT-E 8152	Allied Corp., Morristown, NJ	49 CFR 177.824(b), 178.343-2	To authorize shipment of hydrofluoric acid, solution in an unlined DOT Specification MC-312 cargo tank. (Mode 1.)
8208-X	DOT-E 8208	Jet Propulsion Laboratory, Pasadena, CA	49 CFR 173.145, 173.276, 173.336	To authorize shipment of liquid propellant ssmples, frozen, in non-DOT specification plywood boxes. (Mode 1.)
8238-X	DOT-E 8238	ASARCO Inc., New York, NY	49 CFR 173.368	To authorize shipment of arsenical flue dust in non-DOT specification reusable bags. (Mode 2.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8426-X	DOT-E 8426	Martin Tank Manufacturing, Inc., Wilmington, CA.	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks complying with DOT Specification MC-307/312 with certain exception, for transportation of liquid and semi-solid waste materials. (Mode 1.)
8565-X	DOT-E 8565	Olin Corp., Stamford, CT	49 CFR 173.217(a)(3), 178.224	To authorize shipment of calcium hypochlorite mixture, dry, classed as oxidizers, in a DOT Specification 21C fiber drum having an inner ply consisting of a lamination of polyester film mounted on aluminum foil. (Modes 1, 2, 3.)
8569-X	DOT-E 8569	General Dynamics Corp., Fort Worth, TX	49 CFR 172.101(6)(b), 173.276, 175.3	To authorize shipment of 6.6 gallons of hydrazine, aqueous solution in non-DOT specification F-16 emergency fuel tanks. (Modes 1, 3, 4.)
8569-X	DOT-E 8569	U.S. Department of Defense, Falls Church, VA.	49 CFR 172.101(6)(b), 173.276, 175.3	To authorize shipment of To authorize shipment of 6.6 gallons of hydrazine, aqueous solution in non-DOT specification F-16 emergency fuel tanks. (Modes 1, 3, 4.)
8571-X	DOT-E 8571	EM Science, Cincinnati, OH	49 CFR 173.119(a)(28), (b)	To authorize shipment of various flammable liquids packaged in a DOT Specification 12A corrugated fiberboard box, with two inside metal can not over 10 liters capacity each. (Mode 1.)
8577-X	DOT-E 8577	Micor Co., Inc., Milwaukee, WI	49 CFR 172.312, 173.249	To authorize shipment of certain alkaline corrosive liquids, n.o.s., in a two-quart polyethylene bottle, placed in a molded polyethylene liner, overpacked in a DOT Specification 37C80 steel drum of 35 gallon capacity, also containing a non-regulated resin. (Modes 1, 2, 3.)
8679-X	Dot-E 8679	MicroD International, Burnsville, MN	49 CFR 172.101(6)(b) 172.400, 173.266, 175.3, 175.30.	To authorize shipment of a water reactive material via air when packaged in the same outside packaging with separately packaged small quantities of a flammable liquid, a corrosive liquid, a corrosive solid, and non-hazardous materials, in non-DOT specification corrugated fiberboard boxes. (Modes 1, 4, 5.)
8725-X	DOT-E 8725	CNG Cylinder Corp., Long Beach, CA	49 CFR 173.302(a)	To authorize certain flammable and nonflammable gases as additional commodities. (Mode 1.)
8815-X	DOT-E 8815	Atlas Powder Co., Dallas, TX	49 CFR 173.114a(b)	To authorize transport of certain blasting agents in a cement mixer motor vehicle. (Mode 1.)
8888-X	DOT-E 8888	Nalco Chemical Co., Oak Brook, IL	49 CFR 172.101 column 6(b), 173.119, 173.245 (a)(17), 175.30.	To authorize shipment of compound cleaning, liquid, in drums having a capacity exceeding the net quantity limitations for cargo only aircraft. (Mode 4.)
8901-P	DOT-E 8901	Douglas Chemical Co., Liberty, MI	49 CFR 173.357	To become a party to Exemption 8901. (Mode 1.)
8962-X	DOT-E 8962	HTL Industries, Inc., Duarte, CA	49 CFR 173.302(a) 175.3, 178.44	To authorize manufacture, marking and sale of non-Dot specification girth welded stainless steel cylinders, for transportation of a compressed gas. (Modes 1, 2, 4.)
8991-X	DOT-E 8991	Lea Ronal, Inc., Freeport, NY	49 CFR 172.35(a), 172.400, 172.402(a)(2), 172.402(a)(3), 172.504(a), 173.126, 173.138, 173.237, 173.246, 175.3.	To authorize transport of packages bearing the DANGEROUS WHEN WET label, in motor vehicles which are not placarded FLAMMABLE SOLID W. (Modes 1, 2, 4.)
8998-X	DOT-E 8998	Oil Air Industries, Inc., Brookshire, TX	49 CFR 173.302(a)(1), 175.3	To authorize shipment of nitrogen in hydraulic accumulators. (Modes 1, 2, 3, 4.)
9001-P	DOT-E 9001	TI Chesterfield, Ltd., Derbyshire, England	49 CFR 173.301, 173.302, 173.304, 175.3, 178.45.	To become a party to Exemption 9001. (Modes 1, 2, 3, 4.)
9001-X	DOT-E 9001	Chesterfield Cinder Co., Enid, OK	49 CFR 173.301, 173.302, 173.304, 175.3, 178.45.	To authorize use of a non-DOT specification cylinder complying in part with DOT Specification 3T, for transportation of certain flammable and nonflammable gases. (Modes 1, 2, 3, 4.)
9017-X	DOT-E 9017	Mobay Chemical Corp., Pittsburgh, PA	49 CFR 173.264(b)	To authorize use of a non-DOT specification IMO Type 5 portable tank, for transportation of anhydrous hydrofluoric acid. (Modes 1, 2, 3.)
9017-X	DOT-E 9017	EVA Esenbahn-Verkehrsmittel-Gesellschaft mbH, Dusseldorf, West Germany	49 CFR 173.264(b)	To authorize use of a non-DOT specification IMO Type 5 portable tank, for transportation of anhydrous hydrofluoric acid. (Modes 1, 2, 3.)
9034-X	DOT-E 9034	Arco Industrial Gases, Riverton, NJ	49 CFR 173.302, 173.304, 173.328, 173.334, 175.3.	To authorize use of a previously not authorized DOT Specification 3AL aluminum cylinder, for transportation of certain gases and gas mixtures. (Modes 1, 2, 3, 4, 5.)
9034-X	DOT-E 9034	Union Carbide Corp., Danbury, CT	49 CFR 173.302, 173.304, 173.328, 173.334, 175.3.	To authorize use of a previously not authorized DOT Specification 3AL aluminum cylinder, for transportation of certain gases and gas mixtures. (Modes 1, 2, 3, 4, 5.)
9036-X	DOT-E 9036	The Marison Co., South Elgin, IL	49 CFR 178.37-4(a), Part 173, Subparts G, H.	To authorize manufacture, marking and sale of billet pierced DOT Specification 3AA cylinders, for transportation of compressed and poisonous gases. (Modes 1, 2, 3, 4, 5.)
9298-X	DOT-E 9298	Eli Lilly Co., Indianapolis, IN	49 CFR 173.252	To authorize an additional two non-DOT specification tanks and to allow fluoroshield to be used as a coating on the tanks. (Mode 1.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9357-N	DOT-E 9357	Dynatrans AB, Sweden, Gothenburg, Sweden.	49 CFR 173.315, 178.245	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of liquefied compressed gases. (Modes 1, 2, 3.)
9359-N	DOT-E 9430	BONDICO, Inc., Key Biscayne, FL	49 CFR 173.3(c)	To authorize manufacture, marking and sale of non-DOT specification polyethylene/fiberglass removable head salvage drums of 90 gallon capacity for overpacking damaged or leaking packages of hazardous materials. (Modes 1, 2.)
9371-N	DOT-E 9371	Ronson Aviation, Inc., Trenton, NJ	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of Class A, B and C explosives that are not permitted for shipment by air, or are in quantities greater than those prescribed for shipment by air. (Mode 4.)
9375-N	DOT-E 9375	Magnavox Government & Industrial Electronics Co., Fort Wayne, IN.	49 CFR 173.86	To authorize transport of certain explosives which have been classed previously, but for which records have been lost, to a waste disposal site. (Mode 1.)
9380-N	DOT-E 9380	ARCO Pipe Line Co., Independence, KS	49 CFR 173.119, 173.304, 173.315	To authorize use of a non-DOT specification container described as a mechanical displacement meter prover mounted on a truck chassis, for transportation of hydrocarbon products. (Mode 1.)

NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9382-N	DOT-E 9382	Aquatech, Inc., Cleveland, OH	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To authorize manufacture, marking and sale of non-DOT specification cargo tanks designed and constructed in full compliance with DOT Specification MC-307/312 except for bottom outlet valve variations, for transportation of flammable liquid, corrosive materials or poison B liquids. (Mode 1.)
9384-N	DOT-E 9384	Bemis Co., Inc., Chicago, IL	49 CFR 172.407(b)	To authorize manufacture, marking and sale of multi-wall paper bags bearing pre-printed labels of a smaller size than required by 172.407(b), for transportation of an oxidizer. (Modes 1, 2.)
9408-N	DOT-E 9408	Ethyl Corp., Baton Rouge, LA	49 CFR 173.301.(d)(2), 173.302	To authorize transport of silicon tetrafluoride in DOT Specification 3AAX cylinders. (Mode 1.)
9413-N	DOT-E 9413	EM Science, Cincinnati, OH	49 CFR 173.286	To authorize transport of a chemical kit which contains small amounts of hydrochloric acid and zinc powder. (Mode 1.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 5206-P	DOT-E 5206	Amos L. Dolby Co., Corsica, PA	49 CFR 173.114a	To become a party to Exemption 5206. (Mode 1.)
EE 9442-N	DOT-E 9442	Celanese Chemical Co., Dallas, TX	49 CFR 173.119(a)	To authorize the use of 20/18 gauge DOT Specification 17E steel drums, for transportation of a flammable liquid (Mode 1.)

WITHDRAWALS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9335-N	Halliburton Services, Duncan, OK	49 CFR 173.315(m)	To authorize transportation of anhydrous ammonia in non-DOT specification "nurse tanks" conforming to 49 CFR 173.315(m) except for use in well servicing operations, and DOT Specification 51 for use in offshore operations. (Modes 1, 2.)

Denials

8511-X Request by Interox America, Houston, TX to authorize transport of hydrogen peroxide, in DOT Specification MC-312 cargo tanks and 103CW of 111A60W7 tank cars denied May 31, 1985.

8511-X Request by Oxychem Company, Inc., New York, NY to authorize transport of hydrogen peroxide, in DOT Specification MC-312 cargo tanks and 103CW or 111A60W7 tank cars denied May 31, 1985.

9365-N Request by Giles Tool Agencies Limited, Scarborough, Ont. Canada to manufacture, mark and sell non-DOT specification containers similar to DOT Specification 2Q, except for larger capacity, for shipment of a liquefied petroleum gas mixture-propane/isobutane, classed a flammable gas denied May 13, 1985.

9368-N Request by Wonder Corporation of America, Norwalk, CT to authorize shipment of aliquefied petroleum gas mixture, propane/butane, classed as flammable gas in non-DOT specification cylinders, not to exceed 12 ounce capacity, patterned after DOT Specification 39 denied May 15, 1985.

9403-N Request by Schlumberger Well Services, Houston, TX to authorize carriage of charged well casing jet perforating guns by specialized common motor carriers rather than by privately owned and operated motor vehicles denied May 6, 1985.

9403-N Request by Schlumberger Offshore Services, Houston, TX to authorize carriage of charged well casing jet perforating guns by specialized common motor carriers rather than by privately owned and operated motor vehicles denied May 6, 1985.

Issued in Washington, DC, on June 18, 1985.

Joseph T. Horning,

Chief, Exemption and Approvals Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 85-15276 Filed 6-25-85; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supp. to Dept. Arc. Public Debt Series—No. 18-85]

Treasury Notes; Series W-1987; Interest Rate

June 20, 1985.

The Secretary announced on June 19, 1985, that the interest rate on the designated Series W-1987, described in Department Circular—Public Debt Series—No. 18-85 dated June 13, 1985, will be 8½ percent. Interest on the notes will be payable at the rate of 8½ percent per annum.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 85-15272 Filed 6-25-85; 8:45 am]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 21-85]

Treasury Bonds of 2005

Washington, June 19, 1985.

1. Invitation for Tenders

1.1. The secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $4,500,000,000 of United States securities, designated Treasury Bonds of 2005 (CUSIP NO. 912810 DR 6), hereafter referred to as Bonds. The Bonds will be sold at aucton, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Bonds and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Bonds may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Bonds will be dated July 2, 1985, and will accrue interest from the date, payable on a semiannual basis on February 15, 1986, and each subsequent 6 months on August 15 and February 15 through the date that the principal becomes payable. They will mature August 15, 2005, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness

day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Bonds are subject to all taxes imposed under the Internal Revenue Code of 1954. The Bonds are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Bonds will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. Bonds in registered definitive form will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000 Bonds in book-entry form will be issued in multiples of those amounts. Bonds will not be issued in bearer form.

2.5. Denominational exchanges of registered definitive Bonds, exchanges of Bonds between registered definitive and book-entry forms, and transfers will be permitted.

2.6. The Bonds will become eligible for STRIPS (Separate Trading of Registered Interest and Principal of Securities) on February 18, 1986. Under the Treasury's STRIPS program, a book-entry Bond may be divided into its separate Principal and Interest components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specificially applicable to the separation, maintenance, and transfer of Principal and Interest Components will be announced at a later date.

2.7. The Department of the Treasury's general regulations governing United States securities apply to the Bonds offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight saving time, Thursday, June 27, 1985. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, June 26, 1985, and received no later than Tuesday, July 2, 1985.

3.2. The par amount of Bonds bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Bonds applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public annoucement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 95.000. That stated rate of interest will be paid on all of the Bonds. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Bonds specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Bonds allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Bonds allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5 must be made or completed on or before Tuesday, July 2, 1985. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no

later than Friday, June 28, 1985. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Bonds allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, July 2, 1985. When payment has been submitted with the tender and the purchase price of the Bonds allotted is over par, settlement for the preminum must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Bonds allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Bonds allotted are not required to be assigned if the new Bonds are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new Bonds are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Bonds offered by this circular) in the name of (name and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Bonds, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.4. Registered definitive Bonds will not be issued if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (e.g., an individual's social security number or an employer identification number) is not furnished. Delivery of the Bonds in registered definitive form will be made after the requested form of registration has been validated, the registered interest account has been established, and the Bonds have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be neecessary, to receive payment for, to issue and deliver the Bonds on full-paid allotments, and to maintain, service, and make payment on the bonds.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Bonds. Public announcement of such changes will be promptly provided.

6.3. The Bonds issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Bonds.

Gerald Murphy,

Deputy for Fiscal Assistant Secretary.

[FR Doc. 85-15328 Filed 6-21-85; 3:59 pm]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 19-85]

Treasury Notes of June 30, 1989, Series M-1989

Washington, June 19, 1985.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $6,500,000,000 of United States securities, designated Treasury Notes of June 30, 1989, Series M-1989 (CUSIP No. 912827 SK 9), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated July 1, 1985, and will accrue interest from that date, payable on a semiannual basis on December 31, 1985, and each subsequent 6 months on June 30 and December 31 through the date that the principal becomes payable. They will mature June 30, 1989, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. Notes in registered definitive form will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Notes in book-entry form will be issued in multiples of those amounts. Notes will not be issued in bearer form.

2.5. Denominational exchanges of registered definitive Notes, exchanges of Notes between registered definitive and book-entry forms, and transfers will be permitted.

2.6. The Department of the Treasury's general regulations governing United States securities apply to the Notes offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Tuesday, June 25, 1985. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, June 24, 1985, and received no later than Monday, July 1, 1985.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1 The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Monday, July 1, 1985. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, June 27, 1985. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Monday, July 1, 1985. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2 In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted are not required to be assigned if the new Notes are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new Notes are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Notes offered by this circular) in the name of (name and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Notes, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.5. Registered definitive Notes will not be issued if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (e.g., an individual's social security number or an employer identification number) is not furnished. Delivery of the Notes in registered definitive form will be made after the requested form of registration has been validated, the registered interest account has been established, and the Notes have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, to issue and deliver the Notes on full-paid allotments, and to maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is

pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Deputy Fiscal Assistant Secretary.

[FR Doc. 85-15327 Filed 6-21-85; 3:59 pm]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 20-85]

Treasury Notes of July 15, 1992, Series F-1992

Washington, June 19, 1985.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $6,000,000,000 of United States securities, designated Treasury Notes of July 15, 1992, Series F-1992 (CUSIP No. 912827 SL 7), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated July 2, 1985, and will accrue interest from that date, payable on a semiannual basis on January 15, 1986, and each subsequent 6 months on July 15 and January 15 through the date that the principal becomes payable. They will mature July 15, 1992, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. Notes in registered definitive form will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Notes in book-entry form will be issued in multiples of those amounts. Notes will not be issued in bearer form.

2.5. Denominational exchanges of registered definitive Notes, exchanges of Notes between registered definitive and book-entry forms, and transfers will be permitted.

2.6. The Department of the Treasury's general regulations governing United States securities apply to the Notes offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, June 26, 1985. Non competitive tenders as defined below will be considered timely if postmarked no later than Tuesday, June 25, 1985, and received no later than Tuesday, July 2, 1985.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. a single bidder, as defined in Treasury' single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered info an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions: primary dealers, as defined above; Federally-insured savings and loan associations: States, and their political subdivisions or instrumentalities; public pension and retirment and other public funds: international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price about the original issue discount limit of 98.250. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids.

Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes Allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Tuesday, July 2, 1985. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, June 28, 1985. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, July 2, 1985. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted are not required to be assigned if the new Notes are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new Notes are not be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Notes offered by this circular) in the name of (name and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Notes, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.4. Registered definitive Notes will not be issued if the appropriate indentifying number as required on tax returns and other documents submitted to the Internal Revenue Service (e.g., an individual's social security number or an employer identification number) is not furnished. Delivery of the Notes in registered definitive form will be made after the requested form of registration has been validated, the registered interest account has been established, and the Notes have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payments for, to issue and deliver the Notes on full-paid allotments, and to maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Deputy Fiscal Assistant Secretary.

[FR Doc. 85-15329 Filed 6-21-85; 3:59 pm]

BILLING CODE 4810-40-M

Customs Service

Application for Recordation of Trade Name: "International Business Machine Corporation"

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Application for Recordation of Trade name.

SUMMARY: Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "International Business Machines Corporation" used by International Business Machines Corporation, a corporation organized under the laws of the State of New York, located at Old Orchard Road, Armonk, New York 10504.

The application states that the trade name is used in connection with the following merchandise manufactured in numerous foreign countries: Information handling systems and associated components and supplies including data processing equipment; copying machines; printers; word processing; electro-mechanical office equipment; computers; terminals; input and output devices, computer programs; magnetic tape; magnetic disks; diskettes; modems; books, business forms, typewriter ribbons; educational publications; and type fonts.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the **Federal Register.**

DATE: Comments must be received on or before August 26, 1985.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Room 2417, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Beatrice E. Moore, Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

Dated: June 20, 1985.

Edward T. Rosse,

Acting Director, Entry Procedures and Penalties Division.

[FR Doc. 85-15350 Filed 6-25-85; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 123
Wednesday, June 26, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PREVIOUSLY ANNOUNCED TIME AND DATE: 2:00 p.m. (eastern time), Monday, July 1, 1985.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:

CHANGE IN THE MEETING: The following matter was added to the agenda for the closed portion of the meeting: "Amicus Curiae Participation"

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat at (202) 634-6748.

Dated: June 21, 1985.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

[FR Doc. 85-15375 Filed 6-24-85; 10:00 am]

BILLING CODE 6750-06-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:03 p.m. on Thurdsay, June 20, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to adopt a resolution making funds available for the payment of insured deposits made in Farmers State Bank of Dexter, Kansas, Dexter, Kansas, which was closed by the Kansas State Bank Commissioner on Thursday, June 20, 1985.

In calling the meeting, the Board determined on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Chairman's Office, Room 6023 of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Dated: June 21, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-15383 Filed 6-24-85; 11:13 pm]

BILLING CODE 6714-01-M

3

FEDERAL ENERGY REGULATORY COMMISSION

June 21, 1985.

TIME AND DATE: 10:00 a.m., June 28, 1985.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the division of public information.

Consent Power Agenda, 816th Meeting—June 28, 1985, Regular Meeting (10:00 a.m.)

CAP-1.
Project No. 6527-001, Town of Skykomish, Washington

CAP-2.
Omitted

CAP-3.
Project Nos. 6727-002 and 003, Northwest Power Company, Inc.

CAP-4.
Omitted

CAP-5.
Omitted

CAP-6.
Project No. 2890-011, Kings River Conservation District

CAP-7.
Project No. 8194-007, James W. Caples
Project No. 6702-005, Superior Oil Company

CAP-8.
Project Nos. 2890-005 and 006, Kings River Conservation District

CAP-9.
Project No. 7213-002, Northeast Hydro Incorporated
Project No. 8013-001, Small Hydro East

CAP-10.
Project No. 5505-003, Southeastern Hydro Power, Inc.

CAP-11.
Project No. 4167-003, Energenics Systems, Inc.
Project No. 6730-000, Northern Colorado Conservancy District

CAP-12.
Project No. 7478-000, Deep River Hydro, Inc.
Docket No. EL84-42-000, Deep River Hydro, Inc.

CAP-13.
Project No. 2729-006, Power Authority of the State of New York

CAP-14.
Omitted

CAP-15.
Docket Nos. EL85-11-001 and 002, City of Vernon and the Cities of Anaheim, Riverside, Banning Colton, and Azusa, California v. Southern California Edison Company

CAP-16.
Docket Nos. ER85-475-000, ER85-476-000 and ER85-493-000, New England Power Company

CAP-17.
Docket Nos. ER85-468-000, ER85-424-000 and ER85-425-000, Southwestern Electric Power Company

CAP-18.
Docket No. ER85-462-000, Central Vermont Public Service Corporation

CAP-19.
Docket No. ER85-461-000, Kansas Gas and Electric Company

CAP-20.
Docket Nos. ER79-97-001, and ER85-408-000, Alamito Company

CAP-21.
Docket No. ER85-482-000, Lockhart Power Company

CAP-22.
Docket Nos. ER82-427-004, and ER84-075-005, Southern California Edison Company

CAP-23.
Docket No. ER84-582-001, Union Electric Company

CAP-24.

(A) Docket No. RE84–5–002, Texas-New Mexico Power Company
(B) Docket No. RE84–10–001, Iowa Public Service Company
(C) Docket No. RE82–14–002, Kansas City Power & Light Company
(D) Docket No. RE85–1–000, Hawaiian Electric Company
(E) Docket No. RE80–10–003, Wisconsin Power & Light Company
(F) Docket No. RE84–4–001, Indianapolis power & Light Company

CAP–25.
(A) Docket No. RE85–2–001, Central Illinois Light Company
(B) Docket No. RE81–2–2–002, Lansing Board of Water and Light Lansing, Michigan

CAP–26.
Docket No. QF85–172–000, Power Developers, Inc.

CAP–27.
Omitted

Consent Miscellaneous Agenda

CAM–1.
Docket No. GP84–26–000, Getty Oil Company and J.Q. Marshall No. 1 Well

CAM–2.
Docket No. GP85–24–000, State of Oklahoma, Graham Resources, Inc., Section 108 NGPA Determination, Curtis Stark No. 1 Well, FERC JD No. 84–43505

CAP–3.
Docket No. GP85–27–000, State of Oklahoma, Tenneco Oil Exploration and Production Company, Section 108 NGPA Determination, East Columbia Oswego Lime Unit No. 12–2, FERC No. JD81–0482, East Columbia Oswego Lime Unit No. 8–2, FERC No. JD81–13589, East Columbia Oswego Lime Unit No. 2–1, FERC No. JD81–04799

Consent Gas Agenda

CAG–1.
Omitted

CAG–2.
Omitted

CAG–3.
Omitted

CAG–4.
Docket Nos. TA85–3–2–000 and 001, East Tennessee Natural Gas Company

CAG–5.
Omitted

CAG–6.
Docket Nos. TA85–3–34–000 and 001, Florida Gas Transmission Company

CAG–7.
Docket No. RP85–149–000, East Tennessee Natural Gas Company

CAG–8.
Docket No. RP85–150–000, Natural Gas Pipeline Company of America

CAG–9.
Docket No. RP85–151–000, Northern Border Pipeline Company

CAG–10.
Docket No. RP85–152–000, Inter-City Minnesota Pipelines Ltd., Inc.

CAG–11.
Docket No. RP85–140–000, El Paso Natural Gas Company

CAG–12.
Docket No. RP85–155–000, and RP84–11–000, Columbia Gas Transmission Corporation

CAG–13.
Omitted

CAG–14.
Omitted

CAG–15.
Omitted

CAG–16.
Docket No. CP85–487–001, et al., Distrigas of Massachusetts Corporationi

CAG–17.
Docket No. RP85–125–001, Distrigas of Massachusetts Corporation

CAG–18.
Docket No. TA85–2–48–002, ANR Pipeline Comp

CAG–19.
Docket Nos. TA85–3–37–003, and 004, Northwest Pipeline Corporation

CAG–20.
Omitted

CAG–21.
Omitted

CAG–22.
Docket No. TA84–2–30–003 (PGA84–2a), Trunkline Gas Company

CAG–23.
Omitted

CAG–24.
Omitted

CAG–25.
Docket No. RP72–157–071, Consolidated Gas Transmission Corporation

CAG–26.
Docket Nos. ST83–627–000 and 001, Producer's Gas Company

CAG–27.
Docket No. ST85–480–000, Southern Gas Pipeline Company

CAG–28.
Docket Nos. ST85–559–000, ST85–789–000, ST85–630–000, ST81–260–005, 004 and 003, Mustang Fuel Corporation

CAG–29.
Docket No. ST81–193–002, Somerset Gas Service

CAG–30.
Docket Nos. ST81–207–003, ST81–269–001 and ST82–214–001, Monterey Pipeline Company

CAG–31.
Docket Nos. ST81–43–002, 003, ST82–383–001, 002, ST83–75–001, 002, ST83–363–001 and ST84–21–000, Rocky Mountain Natural Gas Company, Inc.

CAG–32.
Docket Nos. ST82–369–000, 001 and ST84–920–000, Taft Pipeline

CAG–33.
Docket No. CI85–180–002, Pogo Producing Company

CAG–34.
Docket No. CI83–257–002, MGF Oil Corporation

CAG–35.
Docket No. CI83–236–000, Arco Oil and Gas Company

CAG–36.
Docket Nos. RI74–188–053 and RI75–21–048, Independent Oil & Gas Association of West Virginia

CAG–37.
Docket Nos. RI74–188–054 and RI75–21–049, Independent Oil & Gas Association of West Virginia

CAG–38.
Omitted

CAG–39.
Docket No. CI85–398–000, Goodrich Oil Company

CAG–40.
Docket No. CI85–400–000, Vesta Energy Company

CAG–41.
Docket No. CI85–424–000, Walter Oil & Gas Corporation

CAG–42.
Omitted

CAG–43.
Omitted

CAG–44.
Docket No. CP85–269–000, Natural Gas Pipeline Company of America

CAG–45.
Docket No. CP70–7–027, Southern Natural Gas Company

CAG–46.
Docket No. CP85–301–000, United Gas Pipe Line Company

CAG–47.
Docket No. CP74–322–001, Michigan Gas Storage Company
Docket No. CP75–3–006, Trunkline Gas Company
Docket No. CI74–738–002, Northern Michigan Exploration Company

CAG–48.
Docket No. CP84–452–000, Texas Eastern Transmission Corporation

CAG–49.
Docket No. CP83–318–001, Intrastate Gathering Corporation
Docket No. CP85–201–000, Zapata Gathering Company

CAG–50.
Docket No. CP85–513–000, Inter-City Minnesota Pipelines Ltd. Inc.

CAG–51.
Docket No. CP84–342–000, Southern Natural Gas Company

CAG–52.
Docket Nos. OR78–1–013, 021, 022, 023, 024 and 028 (Quality Bank), Trans Alaska Pipeline System

I. Licensed Project Matters

P–1.
Project No. 4632–000, Clifton Power Corporation

P–2.
(A) Docket Nos. EL80–19–000, 004, 005, 006, 007, 008, 009, 011, 012, 013, 014, 015 and 016, Massachusetts Municipal Wholesale Electric Company v. Power Authority of the State of New York
Docket Nos. EL80–24–000, 003, 004, 005, 006, 007, 009, 010, 011, 012, 013 and 014, Connecticut Municipal Electric Energy Cooperative v. Power Authority of the State of New York
Docket Nos. EL78–24–029, 032, 033, 034, 035, 036, 038, 039, 040, 041 and 042, Municipal Electric Utilities Association of New York State v. Power Authority of the State of New York
(B) Project No. 2216–003, Power Authority of the State of New York

P–3.
Project No. 7563–001, South Fork II, Inc.

II. Electric Rate Matters

ER-1.
Docket Nos. ER85-486-000 and ER84-571-001, Utah Power & Light Company
Docket No. EL85-28-000, City of Provo, Utah

ER-2.
Docket Nos. EF84-2011-001, EF84-2021-001 and EL84-44-000, U.S. Department of Energy—Bonneville Power Administration

ER-3.
Docket Nos. EF85-2011-000 and EF85-2021-000, United States Department of Energy—Bonneville Power Administration

ER-4.
Docket QF85-311-000, Cogeneration National Corporation

ER-5.
Docket No. EL85-2-000, KP Diversified Investors, Inc.

Miscellaneous Agenda

M-1.
Reserved

M-2.
Docket No. RM85-17000 (Phase II), Regulation of Electricity Sales-for-Resale and Transmission Service

M-3.
Omitted

M-4.
Docket Nos. RM79-63-000 and RM82-31-000, Fees Applicable to Natural Gas Pipelines

M-5.
Docket No. RM83-31-000, Emergency Natural Gas Sale, Transportation and Exchange Transactions

M-6.
Docket No. GP84-23-000, Stowers Oil & Gas Company, et al.

M-7.
Docket Nos. GP80-24-003 and 006, Transcontinental Gas Pipe Line Corporation

I. Pipeline Rate Matters

RP-1.
Docket Nos. TA85-5-5-000 and 001 (PGA85-5 and IPR85-2), Midwestern Gas Transmission Company

RP-2.
Docket Nos. TA85-2-1-000 (PGA85-2), United Gas Pipe Line Company

RP-3.
(A) Docket Nos. RP80-97-037, RP81-54-021, RP82-12-013, RP82-125-015 and TA85-2-9-000, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
(B) Docket Nos. TA85-2-9-000 and 001 (PGA85-2, GRI85-2 and IPR85-2), Tennesee Gas Pipeline Company, a division of Tenneco Inc.

RP-4.
(A) Docket Nos. RP83-113-014, 015 and 016, Pacific Gas Transmission Company
Docket No. RP83-135-004, Pacific Interstate Transmission Company
Docket No. RP83-136-003, Pacific Offshore Production Company
Docket No. RP84-28-001, Pacific Interstate Offshore Company
Docket No. RP83-139-005, El Paso Natural Gas Company
Docket Nos. RP81-130-014, 015 and 016 (not consolidated), Transwestern Pipeline Company
(B) Docket Nos. RP81-130-007, 017, 018, 019, 020 022 and RP83-25-000, Transwestern Pipeline Company

RP-5.
Docket Nos. OR79-1000 and 022 (Phase I), Williams Pipe Line Company

RP-6.
Omitted

II. Producer Matters

CI-1.
Omitted

CI-2.
Docket No. CP74-314-014, El Paso Natural Gas Company
Docket No. CI77-526-004, Sun Exploration and Production Company, et al.
Docket No. CI83-356-004, El Paso Natural Gas Company
Docket No. CI84-49-003, Tenneco Oil Company
Docket No. CI84-51-003, Conoco, Inc.

III. Pipeline Certificate Matters

CP-1.
Docket Nos. CP85-487-000, 001, 002, 003, 004, CP85-488-000, 001 and 002 (not consolidated), Distrigas of Massachusett Corporation

CP-2.
Docket Nos. CP84-429-000 and 001, Texas Eastern Transmission Corporation and Columbia Gas Transmission Corporation
Docket Nos. CP84-654-000 and 001, Algonquin Gas Transmission Company

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-15403 Filed 6-24-85; 12:34 pm]

BILLING CODE 6717-01-M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, July 1, 1985.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Implementation of the Board's Program Improvement Project.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (3202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: June 21, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-15355 Filed 6-21-85; 4:28 pm]

BILLING CODE 6210-01-M

5

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Monday, June 24, 1985.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Discussion of Proposed Streamlining Procedures in Pre-Appeal Stages of Commission Adjudications.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 523-1892, Recorded Message: (202) 523-3806.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 85-15433 Filed 6-24-85; 3:00 pm]

BILLING CODE 6750-01-M

6

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of June 24, July 1, 8, and 15, 1985.

PLACE: Commissioners' Conference Room 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of June 24

Wednesday, June 26

2:00 p.m.
Discussion/Possible Vote on Final Rule on Backfitting (Public Meeting)

Thursday, June 27

1:00 p.m.
Affirmative/Discussion and Vote (Public Meeting)
a. Severe Accident Policy Statement (postponed from June 20)
b. Amendments to 10 CFR Part 60—Disposal of High-Level Radioactive Waste in Geologic Repositories (Tentative)

Week of July 1—Tentative

Tuesday, July 2

10:00 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed Ex. 2 and 6)

2:00 p.m.
Discussion of Pending Investigations (Closed—Ex. 5 and 7)

Wednesday, July 3

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of July 8—Tentative

Tuesday, July 9

9:30 a.m.
Briefing on Davis-Besse (Public Meeting)
2:30 p.m.
Discussion/Possible Vote on Full Power Operating License for Diablo Canon-2 (Public Meeting)

Wednesday, July 10

2:00 p.m.
Discussion/Possible Vote on Full Power Operating License for Fermi-2 (Public Meeting)

Thursday, July 11

9:30 a.m.
Periodic Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)
11:30 a.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of July 15—Tentative

Thursday, July 18

2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Affirmation of Shoreham— Intervenor Renewal of Request to Supplement Environmental Impact Statement (Public Meeting) was held June 19. Continuation of 5/15 Briefing on Proposed Revision of Part 20 scheduled for June 21, *postponed.*

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado (202) 634-1410.

Julia Corrado,

Office of the Secretary.

June 20, 1985.

[FR Doc. 85-15354 Filed 6-21-85; 4:23 pm]

BILLING CODE 7590-01-M

7

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of July 1, 1985.

An open meeting will be held on Monday, July 1, 1985, at 10:00 a.m., in Room 1C30. A closed meeting will be held on Tuesday, July 2, 1985, at 10:00 a.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10).

Commissioner Marinaccio, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Monday, July 1, 1985, at 10:00 a.m., will be:

1. Consideration of a release adopting Securities Exchange Act Rule 3b-9 which excludes from the definition of "bank" as found in Section 3(a)(6) of the Securities Exchange Act of 1934, banks which engage in certain securities activities. For further information, please contact Amy Natterson Kroll at (202) 272-2848.

2. Consideration of whether to issue a release proposing amendments to: (1) Rule 13e-4 under the Securities Exchange Act of 1934 ("Exchange Act") governing tender offers by issuers, to codify that an issuer tender offer must be extended to all holders of the subject security and that all security holders must be paid the highest consideration offered; to conform the minimum offering, withdrawal and proration periods required of issuer tender offers to those required of third party offers; and to keep the offer open for ten business days from an increase in the number of shares sought; and (2) Rule 14e-1 under the Exchange Act concerning unlawful tender offer practices, to apply the rule's minimum time periods to all issuer tender offers. The proposed "all-holders" and "best price" amendments will be considered in conjunction with proposed Rule 14d-10 under the Exchange Act that would codify such requirements for third party offers. For further information, please contact Deren Manasevit at (202) 272-7494.

3. Consideration of whether to publish a release regarding tender offers which would set forth its interpretations and propose to codify (in proposed Rule 14d-10 under the Securities Exchange Act of 1934) its position with respect to equal treatment of security holders in a tender offer, specifying that a tender offer must be extended to all holders of the class of security subject to the offer and all security holders must be paid the highest consideration offered during the offer. The Commission will also consider revising existing Rule 14e-1(b) by adding an increase in the amount of securities sought as a trigger for the additional ten business day period under that Rule. For further information, contact Thomas Sweeney, Office of Disclosure Policy, Division of Corporation Finance (202) 272-2589.

4. Consideration of whether to incorporate the contents of Form N-1Q into Form N-SAR and withdraw Forms N-1Q and N-27d-2 under the Investment Company Act of 1940 (1940 Act) and other rule amendments and rescissions made necessary by this action. Consideration will also be given to amending the instructions to Forms N-1A and N-2 under the 1940 Act which would conform the calculation and reporting of an investment company's portfolio turnover rate in those forms to the manner in which it is calculated in Form N-SAR. For further information, please contact William C. Gibbs at (202) 272-2048.

5. Consideration of whether to propose for public comment amendments to Rules 2a-7 and 12d3-1 and to propose Rule 2a41-1 under the Investment Company Act of 1940, which would address questions regarding the acquisition and valuation of put options by registered investment companies. For further information, please call Jack Murphy at (202) 272-2048.

6. Consideration of whether to publish for comment proposed comprehensive revisions to the Securities Exchange Act proxy rules. In addition to generally updating and clarifying those rules, the proposed revisions would apply the principles of integration to plans involving mergers, consolidations, acquisitions and similar transactions requiring financial statements and would require additional disclosure related to independent public accountants. For further information, please contact Leslie Murphy at (202) 272-2589.

7. Consideration of whether to publish for comment proposed rules to codify the fees for Securities Exchange Act filings relating to cash tender offers, cash mergers and similar transactions. For further information, please contact Leslie Murphy at (202) 272-2589.

8. Consideration of whether to publish a release soliciting comments on various concepts and proposals surrounding the practice of registrants who seek an auditor who is willing to support a proposed accounting treatment which is intended to accomplish the registrant's reporting objectives, but which is not necessarily in accordance with generally accepted accounting principles. This practice is commonly referred to as "opinion shopping." For further information, please contact Robert Burns at (202) 272-2130.

9. Consideration of whether to authorize the release of a Pre-solicitation Document for the operational Edgar system. This document would give potential bidders, persons who make filings with the Commission and potential users the opportunity to view and comment on the operational system, including its functional requirements and financing approach prior to issuance of the request for proposals this fall. For further information, please contact Office of the Executive Director (David T. Copenhafer) (202) 272-3529; or Division of Corporation Finance (Patrica M. Jayne) (202) 272-7054.

The subject matter of the closed meeting scheduled for Tuesday, July 2, 1985, at 10:00 a.m., will be:

Subpoena enforcement action.
Formal orders of investigation.
Settlement of administrative proceeding.
Institution of injunctive action.
Settlement of injunctive action.
Opinion.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: David Powers at (202) 272–2091.

John Wheeler,

Secretary.

June 24, 1985.

[FR Doc. 85–15457 Filed 6–24–85; 4:05 pm]

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federal register

Wednesday
June 26, 1985

Part II

Environmental Protection Agency

40 CFR Parts 260, 262, 264, 265, and 270
Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 262, 264, 265, and 270

[SWH-FRL 2791-1]

Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) today proposes to amend its regulations under the Resource Conservation and Recovery Act (RCRA) for tank systems storing or treating hazardous waste. These proposed amendments would substantially revise, delete, and add to the existing tank standards that apply under interim status and through RCRA permits.

DATES: EPA will accept comments from the public on the proposed amendments until August 26, 1985. Three public hearings will be held on this proposed rulemaking. See Section X of this Preamble for the schedule and location of these public hearings and a brief summary of how they will be conducted.

ADDRESSES: Comments may be mailed to the Docket Clerk (Docket No. 3004, Revised Tank System Standards), Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Comments received by EPA and all references used in this document may be inspected in Room S-212(C), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C., from 9:00 am to 4:00 pm, Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline, at (800) 424-9346 (toll free) or (202) 382-3000 in Washington, D.C., or William J. Kline, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382-7917.

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

I. Authority
II. Background
  A. RCRA Hazardous Waste Program
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  C. The Hazardous and Solid Waste Amendments of 1984
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V. Analysis of Today's Proposed Revisions to the RCRA Tank System Rules
  A. Definitions (§ 260.10)
  B. Storage in Tanks for Less Than 90 Days (§ 262.34)
  C. Ground-Water Protection for Tank Systems
  D. Financial Responsibility (Parts 264 and 265—Subpart H)
  E. Tank System Design, Installation, and Operating Requirements (Part 264—Subpart J)
    1. Applicability (§ 264.190)
    2. Design of Tank System (§ 264.191)
      a. Minimum Shell Thickness
      b. Tank System Concept
      c. Corrosion Protection
      d. Engineer's Assessment of Tank System Design
    3. Installation of New Tank Systems (§ 264.192)
    4. Secondary Containment (§ 264.193)
      a. Background to Today's Proposed Approach
      b. Problems With Retrofitting Existing Above-, In-, and Underground Tank Systems
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      d. Specific Secondary-Containment Requirements for Tank Systems
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      f. Ground-Water Monitoring Alternative
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      h. Leak-Testing
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    5. General Operating Requirements (§ 264.194)
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    7. Response to and Disposition of Leaking or Unfit-for-Use Tank Systems (§ 264.196)
    8. Closure and Post-Closure Care (§ 264.197)
    9. Special Requirements for Ignitable or Reactive Wastes (§ 264.198)
    10. Special Requirements for Incompatible Wastes (§ 264.199)
  F. Interim Status Tank Systems (Part 265—Subpart J)
    1. Assessment and Certification of Tank System Integrity (§ 265.191)
    2. Response to and Disposition of Leaking or Unfit-for Use Tank Systems (§ 265.192)
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    4. General Operating Requirements (§ 265.194)
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  G. Permitting Requirements (Part 270)
    1. Specific Part B Information Requirements for Tanks (§ 270.16)
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  A. Regulatory Costs
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IX. Review of Supporting Documents and Request for Public Comments
X. Schedule for Public Hearings
XI. Compliance With Executive Order 12291
XII. Paperwork Reduction Act
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XIV. List of Subjects in 40 CFR Parts 260, 262, 264, 265, and 270

I. Authority

These regulations are issued under the authority of Sections 1006, 2002, 3001-3007, 3010, 3014, 3015, 3017, 3018, 3019, and 7004 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912, 6921-6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974).

II. Background

A. The RCRA Hazardous Waste Program

Subtitle C of the Resource Conservation and Recovery Act (RCRA) creates a "cradle-to-grave" management system intended to ensure that hazardous waste is identified and safely transported, stored, treated, and disposed. Subtitle C requires EPA to identify hazardous waste and to promulgate standards for generators and transporters of such waste. This includes the creation of a manifest system designed to track the movement of hazardous waste and requires

hazardous waste generators and transporters to employ appropriate management practices to ensure the effective operation of such system. Under section 3004 of RCRA, owners and operators of treatment, storage, and disposal facilities are required to comply with standards "necessary to protect human health and the environment." These standards are generally implemented through permits issued under authorized State programs or by EPA.

B. Status of Subtitle C Rulemaking For Tanks

On December 18, 1978, EPA proposed rules for storage and treatment tanks containing hazardous waste (43 FR 59007–59008). These proposed technical standards took into considertion primarily Occupational Safety and Health Administration (OSHA) standards and EPA Spill Prevention Control and Countermeasures (40 CFR 112) requirements for tanks (issued under Section 311 of the Clean Water Act).

In May 1980, EPA promulgated interim status standards for the storage or treatment of hazardous waste in tanks (Part 265, Subpart J, 45 FR 33244–33245). These standards focused on operating measures designed to prevent releases of hazardous waste from tanks.

On January 12, 1981 (46 FR 2867–2868), the Agency promulgated RCRA permitting standards for those hazardous waste storage and treatment tanks that can be entered for inspection. These standards, which emphasize the structural integrity of tanks to protect against leaks, ruptures, and collapse of the shell, require adequate design, maintenance of minimum shell thickness, and inspections. Concurrent with the promulgation of these permitting standards, EPA requested public comments on numerous issues of concern for future rulemaking, including, for example, secondary containment for all tanks and the banning of underground tanks.

C. The Hazardous and Solid Waste Amendments of 1984

On November 8, 1984, the President signed into law the Hazardous and Solid Waste Amendments of 1984. Two of these amendments directly address the storage or treatment of hazardous waste in underground tank systems. Today's proposed regulations, in part, attempt to respond to these new congressional mandates.

The first amendment (new section 3004 (o)(4)) mandates that EPA promulgate standards requiring any new underground tank system to utilize an "approved leak detection system," defined as a system or technology capable of detecting leaks of hazardous constituents at the earliest practicable time. EPA has examined several types of leak-detection systems and has considered the advantages and disadvantages of each. (See Section IV.B. of this Preamble for a detailed discussion of the different protective measures.) Today's proposal would mandate a leak-detection system as an integral part of secondary containment for all new tank systems, including underground tank systems. The Agency believes this proposal, if finalized, will meet the congressional mandate to detect leaks from new underground tank systems at the earliest practicable time.

The second amendment (new section 3004(w)) requires EPA to promulgate by March 1, 1985, final permitting standards for hazardous waste underground storage tanks that cannot be entered for inspection. This statutory deadline obviously has not been achieved. Today EPA is proposing to apply the revised tank permitting standards in Part 264, Subpart J, to such tanks. When this proposed rule is finalized, it will enable EPA to permit these tanks under Section 3005 and satisfy the requirements in Section 3004(w).

D. Universe of Hazardous Waste Tanks

1. Overview

EPA sponsored a national survey of hazardous waste facilities in 1982–1983 to support an Agency assessment of the environmental effects of hazardous waste facilities and the alternative regulatory approaches for controlling them. A report prepared for EPA, "National Survey of Hazardous Waste Generators and Treatment, Storage, and Disposal Facilities Regulated under RCRA in 1981," presents the survey's methodology and conclusions. A copy of this document has been placed in the public docket for today's proposed rulemaking. (See Section IX of this Preamble for additional information regarding the availability of this document.) According to the data in this survey, approximately 9,100 tanks were used at 1,700 facilities to store or treat hazardous waste in the United States in 1981. (Each facility typically has 5 tanks.) These tanks contained about 13.8 billion gallons of such waste. As seen below, this is less than the amount managed in surface impoundments (35.8 billion gallons), but more than the amount managed by all other methods combined (11 billion gallons).

QUANTITY OF HAZARDOUS WASTES MANAGED IN 1981 (EXCLUDING 90-DAY ACCUMULATION TANKS) IN BILLIONS OF GALLONS

Surface Impoundments	35.8
Tanks (Storage and Treatment)	13.8
Injection Wells	8.6
Landfills	.81
Incinerators	.45
Waste Piles	.39
Storage Containers (Drums)	.16
Land Treatment	.10

Under § 262.34, tanks used by generators to accumulate hazardous waste for less than 90 days (referred to as 90-day accumulation tanks) are subject to a selected portion of the 40 CFR Part 265 standards. The survey showed that, in addition to the 9,100 tanks used to store or treat hazardous wastes, there are about 6,400 90-day accumulation tanks nationwide at 2,100 facilities (each facility typically consisted of 3 tanks).

Survey data show the 90-day accumulation tanks are similar in two respects to other hazardous waste management tanks. First, the typical design capacity for a 90-day accumulation tank is 4,000 gallons while, for tanks requiring permits it is 5,000 gallons. Second, the typical annual throughput for a 90-day accumulation tank is 18,000 gallons; for tanks requiring permits it is 21,000 gallons. EPA did not collect data concerning other characteristics associated with 90-day accumulation tanks, and, therefore, additional statistical comparisons cannot be made.

EPA's experience in inspecting and permitting tank facilities has, however, persuaded the Agency that 90-day accumulation tanks are similar in other respects to the hazardous waste storage tanks being permitted under RCRA.

2. Characteristics of Hazardous Waste Tanks

The survey revealed several significant characteristics of tanks covered by RCRA that were considered in today's proposed rulemaking. These findings are summarized briefly below:

- *Location.* Most hazardous waste tanks (71 percent) are located on or aboveground; 17 percent are partially underground; and 12 percent are completely underground.
- *Secondary containment.* Many hazardous waste tanks (63 percent) already have some type of partial or full secondary containment. In addition, 50 percent have some type of partial or total secondary containment for

ancillary equipment and/or piping. The EPA survey did not examine the types of secondary containment at tank facilities. On the basis of its inspection and permitting experiences, EPA has concluded, however, that in-place secondary-containment systems for tanks vary widely in the quality of environmental protection they provide. Thus, it can be concluded that many of the secondary-containment systems reported to be used by hazardous waste tanks covered by the survey may not meet the containment requirements for tanks being proposed today.

- *Inspections.* Approximately 84 percent of all hazardous waste tanks can be entered for inspection, ranging from 97 percent for open-topped tanks to 61 percent for underground tanks.
- *Material of construction.* Steel is the most common material of construction for hazardous waste tanks (75 percent). Other materials reported include concrete (13 percent) and fiberglass (9 percent). The primary materials for construction of inground tanks is concrete (60 percent); for underground tanks, primarily steel (73 percent); and for aboveground tanks, steel also (84 percent).
- *Types of wastes.* A wide variety of wastes are managed in tanks, and many tanks handle several types of hazardous waste or wastes with more than one hazardous characteristic. Of all the tanks, 38 percent store or treat corrosive wastes; 38 percent, ignitable wastes; 35 percent, toxic wastes; and 18 percent, reactive wastes.
- *Age.* The typical age of a hazardous waste tank is 7 years. The age of tanks varies, however, over a range of 1 to 55 years.

III. Summary of the Proposed Rule

A. Overview

As mentioned previously in this Preamble, EPA has already promulgated interim status and permitting standards for hazardous waste storage or treatment tanks that can be entered for inspection. Further data gathering and analysis by the Agency, as well as experiences in permitting, have revealed that several changes and additions are needed to meet more adequately the goal of protecting human health and the environment. Today's proposal sets forth requirements that address causes of releases at tank facilities. (See a more detailed discussion of the Agency's regulatory strategy for storage facilites, including tanks, in Section IV.D. of this Preamble.) The more stringent controls that are proposed should substantially improve the owner's or operator's ability to contain releases from tank systems and therefore provide needed protection of human health and the environment. In addition, the Agency has concluded that the cost of these controls are not significantly greater than other technologies the Agency evaluated that provide similar protection against leaks. The Agency plans to conduct a risk assessment of the technologies proposed in this rule and of the alternative control measures to protect human health and the environment described in Section IV.C. of this preamble. The results of this assessment may change the Agency's conclusions about the cost-effectiveness of the technologies proposed today. (See Section VIII of the Preamble for a detailed discussion of the economic aspects of the requirements being proposed today.)

B. Objectives of the Proposal

Today's proposal has a number of important objectives. First, these revisions are an important step in meeting mandates of the Hazardous and Solid Waste Amendments of 1984. Second, EPA is proposing requirements that fulfill aspects of EPA's regulatory strategy for tanks that were left unaddressed and for which public comment was requested when the existing regulations for tanks were promulgated in 1981 (see 46 FR 2867–2868). For example, EPA is today proposing the selection of a secondary containment approach for tank systems. The opinions of those who commented were taken into consideration in developing today's proposal.

Third, EPA is announcing the availability of new information and analyses that provide the basis for the proposed revisions. This information is listed in Section IX of this Preamble and has been placed in the rulemaking docket for public inspection. This information will be supplemented by the risk assessment now being conducted to support the final rule. Fourth, EPA is soliciting comment on several regulatory alternatives to the secondary containment approach proposed in this rule.

Finally, the Agency in this rule gives notice that the standards applicable to large quantity generators are also being considered for small quantity generators under Section 3001(d) of RCRA. Consequently, the Agency requests comments on how such an extension might affect the cost estimates, scope, and impact of this rule, especially on the small business community (see Section VI.A. for a detailed discussion).

C. Existing Regulatory Strategy

EPA's regulatory approach to storage facilities was discussed in the **Federal Register** of January 12, 1981 (see 46 FR 2807–2808). The Agency's overall strategy for hazardous waste storage facilities is based on a policy decision that the best way to accomplish the statutory goal of protecting human health and the environment is to contain the waste for the term of the storage. This containment approach focuses on the prevention of releases to the soil and to ground and surface waters where such releases may present a risk to human health or the environment.

The containment strategy for hazardous waste storage resulted in a regulatory approach that requires the following: the proper design and operation of a primary containment device to prevent leakage and overflow as long as the waste remains in storage; an inspection program to monitor deterioration of the primary-containment system and the area around the storage unit; and the use of secondary containment where the primary-containment devices are easily damaged and/or inspection is difficult. The existing Part 264 tank standards implement a portion of this three-tiered regulatory approach for tanks that can be entered for inspection in the following manner. The design and operation of a primary-containment system are achieved through minimum tank shell thickness requirements (§ 264.191) and tank overfilling and freeboard controls (§ 264.192(b)). An inspection program for the primary-containment and overfilling controls is also required (§ 264.194).

Several aspects of the Agency's strategy for regulating storage tanks were left unaddressed by the existing regulations. First, a secondary-containment standard was deferred pending public comment on, and EPA consideration of, three possible containment options that were presented in the earlier Preamble (see 46 FR 2833). These options are discussed more fully in Section V.E.4. of this Preamble.

Secondly, the existing Part 264 standards pertain only to tanks that can be entered for inspection. Implementation of standards for underground tanks that cannot be entered for inspection were deferred pending public comment on, and EPA's consideration of, a ban on the treatment or storage of hazardous waste in underground tanks that cannot be entered for inspection or tanks located in the water table (see 46 FR 2831).

Finally, the existing standards do not require corrosion protection for steel tanks whose surfaces are exposed to corrosion-inducing soil. In the January

12, 1981 preamble, the Agency requested comment on the requirement of cathodic protection for partially buried steel tanks.

D. Today's Proposal

Today, EPA is proposing regulatory measures for storage tanks that would fulfill the regulatory approach for storage tanks described in the January 12, 1981 preamble by developing permitting standards under Part 264 for underground tanks that cannot be entered for inspection, by developing corrosion protection requirements for metal tank systems that are susceptible to corrosion, and by selecting a secondary containment approach. These revisions would also fulfill mandates of the 1984 amendments that new underground tanks be equipped with leak detection systems (RCRA §3004(o)(4)) and that EPA issue permitting standards for underground tanks that cannot be entered for inspection (RCRA § 3004(w)). In addition, EPA is proposing revisions to certain existing standards that have proven unworkable and ineffective. These proposed revisions and additions do not depart from the regulatory strategy announced in the January 12, 1981 preamble, but rather reinforce and complete the strategy.

The major elements of today's proposal include the following: Under proposed revisions to the Part 264 permitting standards, structural integrity of all tank systems for which permits are sought would be assessed by a qualified registered professional engineer and submitted to the Regional Administrator. Included in this assessment for metal tank systems would be a determination by a corrosion expert of the type and degree of corrosion protection needed to ensure the integrity of the system for its intended life. This requirement would replace the existing minimum shell thickness requirements.

Proposed Part 264 requirements would also establish installation standards for new tank systems and require that a qualified registered professional engineer or a qualified inspector trained in the installation of tank systems prepare a written statement to be kept on file at the facility attesting to the proper installation of the system. Supervision and certification by a corrosion expert of the installation of cathodic protection systems would also be required.

Proposed Part 264 regulations would require that all new tank systems have secondary containment and that existing tank systems either have full secondary containment or implement a ground-water monitoring program. Facilities with existing tanks that elect to implement ground-water monitoring rather than retrofit full secondary containment would be required to construct partial secondary containment for any above-ground portions of their systems. In addition, existing underground tank systems that do not have secondary containment would be required to test the integrity of their systems every six months. Tank systems that have secondary containment would have to maintain a leak detection system that detects leaks within 24 hours of entry of liquid into the containment system.

Part 264 inspection requirements would be revised to ensure that structures or devices required under the new regulations, such as corrosion protection devices and leak detection systems, are periodically inspected. In addition, these revisions would require owners and operators to establish a schedule for assessing the integrity of aboveground and inground tanks.

Part 264 would also be amended to establish procedures for responding to leaks once they are detected.

Proposed revision to the Part 265 interim status standards would require that the structural integrity of all tank systems that have interim status be assessed within six months of the effective date of these proposed regulations (by internally inspecting aboveground and inground tanks that can be entered for inspection and by leak testing underground tanks).

Proposed Part 265 regulations would also provide a secondary containment option similar to that proposed for existing permitted tanks under Part 264. The regulations would require that tank systems either have full secondary containment or that a groundwater monitoring program be implemented. Tank systems that do not have secondary containment would have to have partial secondary containment for any above-ground portions of the tank system without secondary containment and would have to be leak tested every six months.

Inspection requirements for interim status tanks would also be revised to ensure that structures or devices required under the new regulations are inspected.

Part 265 would be amended to establish procedures for responding to leaks and to repair or replace unfit tanks.

Finally, today's proposal would require that all tanks subject to the 90-day accumulator provisions of 40 CFR § 262.34 have full secondary containment.

These proposed revisions and additions to the existing regulations are discussed in detail in Part V of this Preamble. The following sections discuss the factors and alternatives considered in developing today's proposal.

IV. Considerations Influencing Today's Proposal

This section of today's Preamble discusses factors that influenced the revision of the current standards for hazardous waste tank systems. A detailed discussion of the various protective measures that were considered in developing today's proposal is also included.

A. Limitations of the Existing RCRA Tank Standards

1. Incompleteness of Existing Standards

As stated above, on January 12, 1981, EPA published interim final permit standards for hazardous waste storage and treatment tanks that can be entered for inspection. The Agency requested public comment on these permitting standards and on several specific issues. The latter included: (1) Banning the treatment or storage of hazardous wastes in tanks located in the water table or in underground tanks that cannot be entered for inspection; (2) the need for and effectiveness of three secondary-containment options for tanks; and (3) cathodic-protection measures for partially buried tanks (see 46 FR 2831–2834).

The Agency was unable to consider all the public comments and to complete the regulations within a short time. As a consequence, there are, for example, no standards for permitting underground hazardous waste tanks that cannot be entered for inspection and no requirements for secondary containment or external corrosion protection.

2. Unworkableness of Existing Standards

EPA's experience in writing RCRA permits reveals that certain existing Subpart J tank standards are impractical to implement at many types of facilities. Other standards are effectively applied at some facilities but not at others.

EPA has identified several flaws in the current tank design standard requiring the establishment and maintenance of a minimum shell thickness (§ 264.191). This standard can be applied effectively only to aboveground steel tanks; many of the testing mechanisms for shell thickness do not work adequately for other types of tanks (e.g., concrete and underground tanks); and many existing tank facilities

have nonspecification tanks for which detailed design information about the shell is not available.

EPA is concerned that inspection requirements are less protective of the environment for underground tanks than aboveground tanks because the exterior of the former cannot be inspected. Owing to the serious potential for accelerated corrosion of metal tanks that are placed in the ground, internal inspections may not be adqeuate to detect corrosion.

3. Necessity for Additional Requirements

The Agency has received new information indicating that some tank systems are leaking and may be threatening human health and the environment. This new information comes primarily from three sources: Several EPA-sponsored studies completed in 1984; information from the public, industry, and State and local governments, including survey results and studies; review of internal Agency information pertaining to damages, or threats of damage, caused by releases of hazardous wastes from tank systems. These sources can be found in the rulemaking docket. (See Section IX of the Preamble for information concerning the docket and for a summary of the sources.)

The new information documents over 30 cases where hazardous waste tank facilities have leaked or spilled hazardous waste into the environment. (Twenty of them are suspected of impacting, or threatening to impact, community ground-water well systems.) In addition to the cases mentioned above are 20 that were reported in the background document supporting the May 19, 1980, regulations. Numerous other cases are cited in State or local survey data.

EPA plans to supplement these case examples with an analysis of the risks to human health and the environment from hazardous waste tank releases under different environmental conditions.

The existing Subpart J permitting standards emphasize the importance of adequate tank shell design (i.e., establishment of minimum shell thickness) and periodic assessments of the shell's integrity to ensure that tanks do not rupture or leak hazardous waste into the environment. A recent EPA report, *Assessment of the Technical, Environmental, and Management Aspects of Storage and Treatment of Hazardous Waste in Aboveground and Inground Tanks*, indicates, however, that structural design deficiency is among the least common factors that cause releases. The existing tank design standards (§ 264.191) do not adequately address the factors that actually contribute to the releases.

B. Protective Measures Considered

In developing today's proposed revisions, EPA has concluded that certain management practices, such as proper design (adequate structure), proper installation, and good day-to-day operating rules are applicable and appropriate for hazardous waste tank systems. The Agency believes, however, that although these baseline practices are of crucial importance in ensuring the overall proper management of a tank system, they do not provide sufficient protection of human health and the environment from releases of hazardous waste from these systems. Studies indicate that some releases from primary-tank systems are inevitable over time and that all releases cannot be prevented by tank design and operating requirements. On the basis of the information available at this time, therefore, EPA has concluded that a secondary containment approach, as was contemplated in the January 12, 1981 Federal Register is necessary. EPA recognizes, however, that protection of human health and the environment may not require the containment of all releases by means of an impervious secondary containment structure surrounding or beneath the primary containment device in all situations. An approach may be to rely upon early release detection systems and a rapid response program to prevent releases from endangering human health or the environment. Other options are presented in Section IV.B. of this preamble.

In the course of deciding the most effective regulatory approach for properly managing the storage or treatment of hazardous waste in tank systems, EPA has considered several technical protective measures. Each protective measure was assessed with respect to its sole effectiveness in detecting and containing releases of hazardous waste. The Agency invites comment on these measures and on their applicability to the proper management of hazardous waste tank systems.

1. Inventory Monitoring

Inventory monitoring, by which inputs and outputs from the tank system are recorded daily, is one means of detecting leakage from the system. Gasoline stations have long made checks with dipsticks and taken readings of the gasoline pump meters. Inventory monitoring, if regularly and properly conducted, can serve as a useful tool for detecting leaks at motor fuel dispensing stations. These two measurements enable the station operator to determine if the inventory coincides with the quantity of product delivered minus the amount of product sold. Low inventories may indicate leakage from the tank, theft, or underdeliveries, while high inventories could indicate overdeliveries or leakage of water into the tank.

EPA has examined the techniques of inventory monitoring to detect leaks from hazardous waste storage or treatment tanks and found that, for the reasons given below, there are numerous constraints in applying these techniques to the universe of hazardous waste tanks.

The Agency believes that, because of the chemical and physical dynamics that are often involved, there is considerable room for error in inventory monitoring of tanks used for treatment of hazardous waste. Sludge removal, chemical additions, and recirculation, among other similar processes, could make accurate monitoring in a treatment tank difficult. Furthermore, treatment tanks are often open topped and, therefore, subject to climatic conditions (e.g., losses from evaporation and gains from precipitation).

Accurate inventory monitoring may also be difficult to achieve when hazardous waste is delivered to the storage or treatment tank via gravity flow. Methods available for gauging volume in gravity flow pipes include liquid level sensors and venturi meters. Liquid level measurements, which require computation of flow using pipe slope and roughness coefficients, are inaccurate for relatively small-diameter piping. A venturi meter requires that the pipe be full, which may not be a typical condition at many hazardous waste storage or treatment facilities.

Several techniques, such as magnetic, venturi, mass, vortex, turbine, and positive displacement flow meters, make inventory monitoring feasible in pump-fed systems. The accuracy of a flow measurement varies from 0.25 percent of the measured flow to 10 percent of the full-scale flow, depending on the type of pump, manufacturer, and application. In order to provide adequate detection of releases in hazardous waste tanks, the error in flow measurement needs to be on the low end of this range. For example, a flow meter with an accuracy of 1 percent of the measured flow would not be capable of detecting a leak of less than 1 gallon per day in a tank system handling 3,000 gallons of hazardous waste per month.

An alternative to measuring pipe flow for the purpose of monitoring inventory is the gauging of the liquid level in the tank. Because of the dynamic nature of treatment tank processes, EPA believes that this method is not appropriate for most treatment tanks. Monitoring of liquid level can either be manual (with a dipstick) or automatic (by float or electronic monitor). Use of dipsticks is very inexpensive, but the accuracy of the method appears to be relatively low because of the opportunity for human error. EPA is presently evaluating this method to determine if greater accuracy may be achieved through the use of different inventory monitoring procedures. An added concern with the use of dipsticks in hazardous waste storage tanks is safety—the potential for direct contact or exposure to the hazardous waste being stored. There is, furthermore, the risk of damaging the tank (especially fiberglass-reinforced plastic [FRP] tanks) as a result of repeated impacts of the dipstick on the tank's bottom. Likewise, the repeated impact of a dipstick can damage linings of steel tanks. Nonmanual-level sensors, which are more accurate than dipsticks, are readily available but are considerably more expensive. Regardless of which tank gauging method is used, however, temperature can have a major impact on the accuracy of this type of monitoring. For example, a change in temperature of 1 degree Fahrenheit for 10,000 gallons of a liquid with a coefficient of expansion of 0.0006 (e.g., carbon tetrachloride) will result in a change in volume of 6 gallons. As a consequence, variations in temperature between level readings, unless strictly minimized, may result in misleading readings. EPA is not convinced that such variations can be minimized. Public comment on these deficiencies in the use of level readings is invited.

Although inventory monitoring can detect large leaks, it cannot be depended on for detecting smaller leaks (fewer than 15 gallons per day). Aside from the numerous technical problems involved in conducting accurate inventory monitoring at hazardous waste storage or treatment tanks, there is considerable room for human error (taking readings, making calculations, bookkeeping, etc.). In many cases, inventory monitoring for any given day cannot be truly relied on for positive identification of a release from a tank system; thus, under this detection method, a gradual but significant release could conceivably go undetected for an extended period of time. For all the reasons discussed above, EPA has decided not to propose the use of inventory monitoring for the purpose of detecting leaks from hazardous waste tanks.

2. Leak Testing

Another potential means of determining releases of hazardous waste from tanks is testing of the tanks for leaks, but to date, methods for testing are available only for underground tanks. The major reason for this restriction is that the accuracy of available leak-testing methods depends on the relative stability of the temperature of the tank's contents. Aboveground tanks have much wider temperature fluctuations occuring over short periods of time than do underground tanks. Other factors, such as wind action and vibrations, also make leak testing of aboveground tanks unreliable.

EPA's evaluation of available leak testing methods reveals a number of major concerns, principally, compatibility of the testing equipment with hazardous waste, the minimum detectable size of a leak, the reliability and consistency of test results, and the availability of equipment and trained personnel.

Because available leak-testing methods were developed primarily for detecting and measuring leaks in underground gasoline storage tanks, there is limited information regarding their applicability to the full spectrum of hazardous wastes. The applicability of some leak-testing methods may be restricted in certain cases as a result of the waste's characteristics (e.g., corrosivity, viscosity, etc.). It is reported, however, that several of the methods have been used to detect leaks in commercial, nonpetroleum tank systems. For this reason, EPA believes that many current testing methods could be used or modified to test the majority of underground hazardous waste storage or treatment tanks without imposing insurmountable technical testing problems.

Another concern with current methods is the minimum size leak they can detect. The ideal is to be able to detect all leaks, regardless of their size, but the current state of the art does not achieve this proficiency. The National Fire Protection Association (NFPA) has established a target leak rate of 0.05 gallons per hour (approximately 1 gallon per day) as the standard that some tests can legitimately and accurately attain.

EPA is studying the achievability of this target rate. Public comment is requested on whether this rate is realistic in light of the current state of the art in tank leak testing. Any leak-testing methods capable of detecting a leak of 0.05 gallon per hour must take into consideration, among other factors, the volumetric coefficient of expansion of the liquid being tested relative to any change in temperature during the test. Since reliable measurements of leaks at a rate of less than 0.05 gallon per hour are supposedly beyond the scope of current testing methods, a tank system that is tested and shows no leakage down to 0.05 gallon per hour is assumed to be tight (nonleaking).

A third concern associated with leak testing is quality control. Because of the many variables that must be considered (e.g., changes in temperature, variation of temperatures of the tank's contents, the tank's end deflection, characteristics of the liquid stored, etc.) and the potential for human error, there is undoubtedly considerable room for significant variability in the test results. EPA is concerned, for example, with how reliably and consistently a test methodology detects the rate of a leak (using a criterion such as the NFPA's 0.05 gallon per hour rate as the point at which a tank is considered leaking) from a tank, given the potential for a wide margin of error in the testing.

The Agency is undertaking a research program of volumetric and nonvolumetric leak-testing methods in order to determine their accuracy and reliability. The results of this research will enable EPA to define more accurately the applicability and usefulness of leak testing in the management of hazardous waste tanks.

Yet another concern with current leak-testing methods is the availability of equipment and trained personnel nationwide. Although several of the methods are widely available, many are limited to a geographical area. There are restrictions, however, even on those few methods that are nationally available. One company, for instance, has a number of branch offices across the U.S., but allows only its own personnel to perform the testing. The leak-detection equipment is not separately marketed. By means of this approach, the company ensures the accuracy and reliability of its tests. In contrast, another company has taken the opposite approach, focusing primarily on marketing the test equipment. It certifies anyone who purchases the equipment and passes a test given after three days of classroom and field study. Recertification is encouraged on an annual basis.

Both of these approaches present problems. While the first assures a higher level to testing quality control, the number of leak testers may prove

inadequate to meet the demand if leak testing is required on a nationwide basis. EPA's concern with the second approach relates to the quality of testing, which stems in part from the limited experience to date in the testing of hazardous waste tank systems. Furthermore, even though a leak test indicates no leakage at the time the test is conducted, there is no guarantee that a leak will not begin soon thereafter. In order to ensure the ongoing integrity of the tank system, frequent testing would be necessary. Because each leak test costs at least $500 per tank, this alternative could, however, be burdensome for many facilities.

In light of the problems discussed above, the Agency does not believe that leak testing *alone* will ensure adequate protection of human health and the environment. It can play an important role, however, in the proper management of a hazardous waste tank system. Such testing can be used to identify underground hazardous waste tanks and piping that are presently leaking (over 0.05 gallons per hour) so that immediate remedial actions can be taken. In addition to a nationwide screening of all underground hazardous waste tank systems, leak testing could be employed in combination with a ground-water monitoring program to identify leaks in certain cases prior to their being detected by a ground-water monitoring system. For the above reasons, EPA is proposing a nationwide one-time testing of all interim status underground tanks within six months of the effective date of these proposed regulations. EPA is also proposing that underground tanks be tested as a condition to obtaining a permit and that all existing underground tanks that do not have or retrofit full secondary containment be tested on a semi-annual basis. Public comment is requested on these requirements and the applicability of present leak-testing methods in complying with these requirements.

3. Corrosion Protection

Corrosion is the major cause of failure in metal tank systems; nonmetal systems are, of course, not affected. An American Petroleum Institute (API) survey of leaks in underground tank systems at gasoline stations revealed that over 90 percent of tank leaks and 60 percent of pipe leaks were attributable to corrosion resulting from contact of the metal tank system with corrosion-inducing soils. Although this survey involved gasoline rather than hazardous waste storage tanks (according to an estimate by the Agency, approximately 90 percent of the aboveground and underground tanks used to store or treat hazardous waste are constructed of carbon steel), EPA believes there is no appreciable difference in their susceptibility to corrosion. If any difference does exist, EPA expects that the corrosion rate may be higher for hazardous waste tanks because of the corrosive nature of many such wastes stored or treated in tanks.

Corrosion protection under today's proposal would be required for the metal components of tank systems that are found to be susceptible to corrosive conditions. EPA believes that such protective measures are an important facet of the proper management of hazardous waste in metal tank systems and should be addressed in the design of such systems. Although corrosion protection may significantly prolong the life of a metal tank system, it cannot by any means be considered a cure-all. Other significant contributors to the failure of tank systems include operators' errors, overfilling, and failure of ancillary equipment or piping. In addition, unless corrosion-protection devices are properly installed and maintained over the entire life of the tank system, corrosion will occur, and the risk of releases will increase. Improper maintenance of corrosion-protection devices can, in fact, accelerate corrosion beyond what might occur if no protective measures are taken. For these reasons, EPA believes that other protective measures, including those provided by the proposed secondary containment approach and ground-water monitoring alternative, must be used to supplement the proposed corrosion protection requirements. Public comment is requested on the use of corrosion protection measures in the context of today's proposal.

4. Inspections

The existing regulatory approach to hazardous waste storage or treatment tanks relies largely on inspections as the means for detecting and preventing releases (see 46 FR 2808, 2829, and 2831, January 12, 1981). Inspections can detect actual tank leaks, potential locations of leaks resulting from corrosion, or other visible damage to the tank, liner, or coating material. In developing today's proposal, EPA has reevaluated the effectiveness of inspections relative to the proper management of tank systems.

External visual inspections of aboveground tanks (or otherwise accessible portions of tanks) are useful from the standpoint of identifying leaks or other problems before a major release occurs. The role of external inspections is, however, limited in many instances. For example, the exterior of underground and inground tanks and the bottoms of aboveground tanks (unless the tank in cradled or otherwise elevated off the ground) are usually not susceptible to external inspection.

The usefulness of internal inspections has also been reevaluated. Such inspections enable many potential leaks or other impending structural failures to be identified prior to their being viewed from the exterior of the tank or to being released to the environment. The existing standards rely on internal inspections to ensure continued tank integrity.

EPA believes, however, that internal visual inspection of tanks is of limited value because it is only possible to observe obvious cracks and major structural deficiencies. Thus, such inspections must be supplemented by the use of special equipment (e.g., ultrasonic measurements), but even ultrasonic measurements are not appropriate or applicable to many hazardous waste storage or treatment tanks (e.g., concrete tanks). Internal inspections seem to be most effective for steel tanks, while they are of questionable usefulness for FRP tanks and for concrete tanks.

Internal inspections pose a number of problems. Safety is a large concern. The Agency believes that sending people inside a tank to conduct an internal inspection that potentially exposes them to toxic constituents and hazards from fire or explosion is a questionable practice. The cost of emptying a tank to make it safe for entry and to allow a reliable internal inspection involves a number of expensive steps: removal and disposal of the contents, decontamination of the atmosphere in the tank, cleaning (e.g., sandblasting, hydroblasting, steam or chemical cleaning), possible shutdown of the processing operation when the tank is taken out of service. In addition, in order to be an important tool in preventing releases, internal inspections must be done frequently. It is common industry practice, however, to take tanks out of service periodically for routine maintenance so that, if inspections were performed during the routine shutdown of a tank, the cost to the owner or operator of a hazardous waste storage or treatment tank would be considerably less significant.

Owing to the factors discussed above, EPA is reluctant to continue depending primarily on internal inspections for the prevention of releases to the environment from hazardous waste storage or treatment tanks. The Agency does not believe, however, that the use of such inspections should be entirely

eliminated. In certain circumstances they may be a necessity. For instance, internal inspection of roofed tanks enables the owners or operators to check for corrosion or other structural failure of the roof-supporting structure. Also, as previously stated, periodic internal inspections may be useful for detecting obvious structural deficiencies in the tank.

5. Unsaturated Zone Monitoring

The Agency evaluated unsaturated zone monitoring (which refers to monitoring conducted in the area immediately beneath or adjacent to a tank system) for use in detecting releases from these systems. Such monitoring differs from ground-water monitoring which is, usually conducted in the saturated zone.

For unsaturated zone monitoring of tank systems, EPA evaluated the viability of using observation wells combined with thermal conductivity or electrical resistivity sensors or vapor sensors. Lysimeters were also evaluated.

The Agency believes that unsaturated zone monitoring could result in early detection of a release and, thus, facilitate remedial actions to remove or decontaminate the released hazardous constituents prior to the ground water's becoming contaminated. Unsaturated zone monitoring (except for lysimeters) is also continuous. Although the initial cost of this type of equipment is higher than that for ground-water monitoring, the annualized cost is less.

While there are a number of advantages to unsaturated zone monitoring, there also appear to be certain restrictions to its use. Because it is relatively new, experience in using it with a wide variety of chemical substances is limited. Although EPA allows lysimeters to monitor land treatment of hazardous waste, they are largely unproven in monitoring the integrity of tanks. In addition, lysimeters do not provide continuous monitoring and are susceptible to clogging.

Owing to the uncertainties associated with current state-of-the-art unsaturated zone monitoring, EPA is reluctant at this time to endorse this technology as a substitute for ground-water monitoring. EPA invites public comment on the substitution of unsaturated zone monitoring for ground-water monitoring and on its dependability in the early detection of releases of hazardous waste from hazardous waste tank systems.

6. Ground-Water Monitoring

Ground-water monitoring is not presently required for tanks that store or treat hazardous waste. Because of the apparent inevitability of many types of releases from tanks, the Agency believes that ground-water monitoring should be required for any tank system that is not provided with full secondary containment. Thus, there would be periodic (usually semiannual unless otherwise specified by the permitting authority) sampling from wells around the waste management area and analysis of samples for hazardous constituents. The Agency believes that ground-water monitoring equipment can be retrofitted around existing tanks, which would enable such facilities to continue present storage operations relatively unchanged.

EPA is proposing ground-water monitoring for all existing hazardous waste storage or treatment tanks that now are nonleaking and choose not to install full secondary containment. For the reasons discussed in Sections III.C. and V.C., however, the Agency has decided that reliance on ground-water monitoring for new tank systems is inappropriate because of the relative cost-effectiveness of installing full secondary containment for tank systems and the potential costs of corrective action where ground water is allowed to be contaminated.

7. Secondary Containment

The Agency has been evaluating for some time the need for secondary containment for hazardous waste storage or treatment tank systems. ("Secondary containment," as used in this discussion, includes the means for collecting a release and thus preventing its escape into the ground water and/or surface water; it also includes the capability of detecting the presence of liquid within the secondary-containment device ["leak monitoring device"], thus signaling the failure of either the primary- or secondary-containment structures.) Three secondary containment approaches for tank systems were discussed in the Preamble to the January 12, 1981, tank permitting regulations (46 FR 2833). These included "complete containment" (i.e., an impervious base underlying the tanks in the storage area); "variable containment" (i.e., varying levels of containment depending on the likelihood of spills or leaks in the area); and "run-off collection containment" (i.e., diking and drainage to contain catastrophic failures in the primary containment). EPA has subsequently conducted further study of secondary containment for tank systems.

EPA has determined, based upon this study and other studies of leak incidents, that since it is likely that, over time, tank systems will experience failure of one sort or another, a strategy that properly manages the storage or treatment of hazardous waste in tank systems should be capable of not only preventing failure of the tank and its components, but also of containing any release that does occur.

Secondary containment as a technical alternative has a number of advantages. It provides a second line of defense against deficiencies in tank and ancillary equipment and piping design. It minimizes the number of problems associated with undetected leakage. It protects against failures of equipment and against releases resulting from operational errors.

The manner in which secondary containment is achieved depends on whether the tank system is existing or new and on whether the system is aboveground, inground, or underground. (See Section V.E.4. for a more detailed discussion of secondary containment for tanks.)

C. Alternative Regulatory Strategies Considered

Section IV.B. described technical alternatives for controlling hazardous releases from tank systems. These technical measures may be used alone or in combination to protect human health and the environment. This section describes several regulatory options that employ one or several of these measures. The Agency has chosen to propose secondary containment, as described in Section IV.D., based on the information available today. However, EPA will perform an analysis of the costs and risks involved in all of these regulatory options as well as the options described in the 1981 proposal (see 46 FR 2833–34) before the final rule. The Agency requests comments, therefore, on these regulatory options as well as on the option of secondary containment.

1. Combination of Secondary Containment and Ground-Water Monitoring

EPA considered requiring both secondary containment and ground-water monitoring for all tank systems rather than permitting the use of either protective measure. This approach would be consistent with the approach required for surface impoundments and landfills under the 1984 Amendments to RCRA. Under new section 3004(o), each new, replacement, and lateral expansion of existing landfills and surface impoundments is required to install two or more liners and a leachate collection system *and* groundwater monitoring.

With respect to tanks with full secondary containment, EPA believes

that an additional requirement to implement a groundwater monitoring requirement would be unnecessary. If a release between the primary containment and secondary containment did occur, the Agency believes that the noncomplex nature of the tank system (i.e., the relative confined area involved and the high reliability of the leak detection devices) would enhance the prompt detection of any release into the secondary containment system. In addition, unlike most landfills and surface impoundments, if a release is detected, the contents of the tank system can be completely and quickly withdrawn.

With respect to tank systems for which the ground-water monitoring alternative is selected, EPA believes that the combination of semi-annual leak testing for underground tanks, the groundwater monitoring program, and the response, closure, and postclosure care requirements proposed today provide safeguards that will adequately protect human health and the environment. The Agency invites public comment on the need to require both secondary containment and ground-water monitoring for all tank systems.

2. National Risk-Based Standards

As an alternative to across-the-board design and operating standards, EPA evaluated the concept of risk-based standards. Risk-based standards vary according to the degree and type of risk presented based on such factors as site location, type of hazardous waste managed, nearness to ground water, proximity to populated areas, etc. Such factors could be arrayed in the form of a matrix, with different levels of control prescribed according to the relative risk posed by a particular combination of factors.

The Agency chose not to incorporate this option in the proposed rule because of concerns about the difficulty of implementing it, and a lack of quantitive data to justify the selection of control measures for particular sets of factors. The Agency solicits comments on the merits of pursuing this approach in light of its administrative concerns. EPA is especially interested in receiving samples of relevant matrices that have been found to be both analytically sound and capable of being readily understood and followed by the regulated community.

3. Minimum National Standards With a Variance From Containment Requirements Based Upon Risk

In lieu of national risk-based standards, EPA also considered using a risk-based approach via a variance to a set of uniform design/operation standards. For example, assume that full secondary containment is established as the uniform national standard for all hazardous waste tank systems. Then, an owner or operator of a tank system could request a variance to the secondary containment requirement if he could demonstrate that, even if a release did occur from his tank system, it would not present a danger to human health or the environment. Such a determination of low or no risk might be based on the type of waste stored, hydrogeological characteristics of the area, current and future uses of the water, etc. such as is now requried to establish ground-water monitoring of an alternate concentration limit for a hazardous constituent (see § 264.94(b)).

This option was not included in this rule because of preliminary data indicating that the cost of demonstrating compliance with the terms of such a variance is generally higher than actually complying with the technical standards proposed today. We solicit comment on the costs of demonstrating that releases from a hazardous waste tank pose a low risk to human health and the environment. Based on this data and further information that EPA plans to compile over the next months, we will re-evaluate the merits of including a risk-based variance in the final rule.

4. Minimum Performance Standards

Yet another alternative evaluated by EPA is the concept of a minimum federal performance standard for hazardous waste tank systems. Such a performance standard might be: all new tank systems must be located, designed, operated, maintained, and closed in a manner that will assure protection of human health and the environment. Under this approach, States would have the option of expanding upon the federal performance standard by promulgating more specific, and possibly more stringent, standards if so desired. In States choosing not to elaborate upon the federal performance standard, owners or operators of tank systems would have the responsibility to demonstrate that their tank systems do not endanger human health and the environment. This would require a case-by-case assessment of the protective measures needed to achieve the performance standard through the permit process. The reader is referred to § 267.10 for examples of the factors that could be taken into consideration in determining these protective measures.

EPA's decision to not include this option in the proposed rule stems from the same concerns expressed with the previous two options. That is, the cost of demonstrating compliance with the performance standard may be considerable, as too may be the difficulty of implementing the approach. Comments received on the previous two options will enable EPA to further examine the merits of this option.

5. Ban of Underground Tanks

As another means of controlling the problem of leaks from underground hazardous waste tanks, EPA considered banning such waste from being stored or treated in underground tanks. A proposal to this effect was discussed in the Preamble to the January 12, 1981, regulations (see 46 FR 2831). The comments were overwhelmingly against such a provision for a number of reasons. One of the comments was that many local fire codes require that tanks be underground. Second, underground tanks are reported to be advantageous where land is scarce or where pumping costs can be eliminated by using gravity flow. Third, it was pointed out that if underground tanks were eliminated, the waste would have to be placed in aboveground tanks, containers, or surface impoundments—a costly move, and, depending on the type of waste stored, perhaps an unsafe alternative.

EPA agrees that the use of underground tanks for the storage of certain wastes may be the safest alternative. EPA also believes that the protective measures proposed today for underground tanks would prevent or detect releases in time to provide necessary protection of human health and the environment. Thus, it is not necessary to ban underground tanks for the storage or treatment of hazardous waste.

6. Forced Retirement of Underground Tanks

As an alternative to secondary containment for underground tanks, EPA considered the option of forced retirement of a tank when it reaches a predetermined age. For example, a new underground bare steel tank could be allowed to operate without secondary containment for, say, 10 years—the age at which there is typically reason to expect corrosion-induced leaks.

There are, however, some significant drawbacks to this approach. As discussed in Section V.E.2.c. of this Preamble, the age of tanks is not a reliable basis on which to predict the existence of corrosion-induced leaks in steel tanks and is irrelevant with respect to releases from FRP and other nonmetal tanks. Depending on the conditions to which a metal tank is exposed, failure resulting from corrosion could occur at

any time between 2 and 50 or more years. Even if the environment in which a steel tank is placed can be accurately assessed with regard to its potential for influencing corrosion, EPA does not believe that it is feasible to predict, for regulatory purposes, the age at which a tank would begin to exhibit leaks.

Because of the many uncertainties involved in this approach to managing hazardous waste in underground tanks, EPA ruled out its use.

D. Today's Proposal for Implementing EPA's Strategy for Tank Systems

Today's proposed revisions to the existing tank standards reflect currently available information and are designed to prevent leaks from tank systems. During the next few months, EPA intends to do more analysis to evaluate the regulatory options and technical measures described in the previous sections to determine their effectiveness at protecting human health and the environment. Based on this new information, as well as the information currently available, EPA will reconsider today's strategy.

As previously stated, the proper management of a hazardous waste storage or treatment tank system involves and to a large extent relies on proper design and operation practices. The protective measures discussed in Section IV.B. were evaluated with respect to their ability to prevent releases from entering the environment. Several measures or combinations of these measures were identified as being appropriate for the purpose of achieving good design and operation of a tank system. Thus, such measures as proper design and installation and the use of corrosion protection are incorporated into today's proposed regulatory strategy to ensure the integrity of the primary tank system. For example, comprehensive assessment of the tank system design is proposed with particular attention given to corrosion protection. Proper installation is also focused on as a means of precluding many of the types of failures (e.g., corrosion-related failures) now being encountered.

EPA's experience and studies since early 1981 have led the Agency to believe that some releases from primary-tank systems are inevitable over time, that all releases cannot be prevented by tank design and operating requirements. Such factors as the accelerated corrosion of metal tanks in contact with the soil, breaks and leaks in ancillary equipment and piping, breakdowns in and spills from overflow equipment, and operators' errors have caused the Agency to conclude that full secondary containment is the most effective means of preventing releases from tank systems. Thus, the Agency today proposes to require, whenever feasible, full secondary containment for hazardous waste tank systems (i.e., tanks and ancillary equipment). For new tank systems, EPA has determined that full secondary containment is always the least costly means of containing releases. Today's proposal, therefore, would require all new tank systems to have secondary containment.

The Agency has determined, however, that full secondary containment may not be the most practical means of containing releases from existing tank systems. Thus, the Agency is proposing an alternative to full secondary containment for existing tanks systems. This alternative would require secondary containment of any portion of a tank system that is aboveground, (i.e., partial secondary containment) plus a ground-water monitoring program. In addition, underground tank systems would be required to be leak tested every six months. For purposes of this Preamble, the alternative to full secondary containment will be termed simply the "ground-water monitoring alternative."

This alternative containment option would apply only to existing tank systems that are operating under either interim status or are already permitted. Because of the need for interaction between the facility owner or operator and EPA whenever ground-water monitoring is implemented, such an option would not be viable for 90-day accumulation tank systems. Thus, these facilities must either be provided with full secondary containment within one year of the effective date of these regulations or apply for a RCA Part 264 permit (see Section V.B. of this Preamble). The chart below illustrates the containment strategy being proposed.

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CONTAINMENT APPROACH

Type of Tank System	Containment Requirements
All permittable hazardous waste storage/treatment tank systems	
- new	full secondary containment
- existing (aboveground and inground)	within one year of effective date, provide full secondary containment or partial secondary containment and ground-water monitoring
- existing (underground)	within one year of effective date, provide full secondary containment or ground-water monitoring and leak testing every six months
90-day accumulation tank systems	
- new	full secondary containment
- existing	full secondary containment within one year of effective date or apply for a Part 264 permit

BILLING CODE 6560-50-C

EPA believes that the ground-water monitoring alternative would provide essentially equivalent protection to full secondary containment. This protection is further ensured by the requirement that the owner or operator take immediate response measures should a release occur.

In addition, EPA is proposing to expand the closure standards for tank systems without full secondary containment to require removal of contaminated soil at closure and post-closure care if all hazardous waste residues and contaminated soil are not removable at closure. The remainder of the proposed strategy is similar to the present strategy (e.g., inspections).

Finally, although the requirement for secondary containment constitutes perhaps the major difference between the existing standards and today's proposed regulatory strategy, there are also other notable changes. One such change is the increased emphasis on the proper design, installation, and operation of ancillary equipment (e.g., pipes, pumps).

V. Analysis of Today's Proposed Revisions to the RCRA Tank Rules

This section contains a detailed discussion of numerous technical and policy issues and the Agency's rationale for proposing today's revisions to the RCRA tank regulations. It also presents EPA's findings and conclusions in support of the specific revisions. These revisions are intended to remedy significant deficiencies in the existing regulations, such as addressing releases from tank piping and ancillary equipment; operators' errors in managing tank systems (e.g., tank overfilling); corrosion of metal tank systems in contact with the soil; and improper installation practices.

A. Definitions

Today's proposed regulations cover only tank systems that are used to store or treat hazardous waste. In these regulations, a "tank system" is comprised of the tank(s) and the ancillary equipment associated with the tank(s) (e.g., pipes, valves, pumps). For example, in the case of a facility at which a waste is pumped from an indoor process tank to an outside hazardous waste storage tank, the term "tank system" would include: the waste storage tank; all piping, along with any valves and pumps going from the process tank to the storage tank; and any vent lines, empty-out lines, or other appurtenances (e.g., monitoring equipment) associated with the waste storage tank.

Today's proposed regulations make some distinctions among aboveground tanks, inground tanks, and underground tanks. This categorization reflects the tank's degree of contact with soil and its capacity to be viewed externally. By means of these categories, one can determine the specific causes of the tanks system's failure, the associated risks posed to the environment, and the practices needed to prevent such failures. Furthermore, as allowed by RCRA and as suggested by numerous comments in response to the January 12, 1981 proposal, EPA is proposing standards that differentiate in some respects between existing and new hazardous waste storage or treatment tanks.

To clarify these and other concerns, EPA is proposing to add in 40 CFR Part 260 several definitions of terms used extensively in today's proposal.

1. Aboveground Tank

An aboveground tank is situated in such a manner that the bottom of the tank is at or above the plane of ground level. It may be placed directly on a foundation, on the soil (at the plane of ground level), on cradles, or elevated on legs.

2. Inground Tank

A tank is considered to be inground if its base is to any degree situated below the plane of ground level and is in direct contact with the soil such that a portion of the tank wall is above the ground and a portion of the tank wall is below the ground (not externally viewable). Tanks that might be typically referred to as inground but that do *not* meet this definitional requirement include tanks situated below floor level inside a building and tanks located in a topographical depression. Such tanks are not different from aboveground tanks because they are not (except for perhaps the base) in direct contact with soil and are externally viewable.

3. Leak Detection System

The Agency believes the ability to detect promptly a release from a tank system is crucial in protecting human health and the environment. Even with systems that have secondary containment, it is important to know when a release from either the tank system or the secondary-containment system has occurred. EPA has concluded that, for tanks with secondary containment, the most effective way of attaining these objectives is to require quick detection of a breach in either the primary- or secondary-containment structure through leak detection and monitoring, which, in its simplest form, might be achieved by a visual inspection by an operator. Thus, EPA today is proposing to define leak detection system as one that provides the capability to detect, within 24 hours, the failure of either the primary- or secondary-containment structure or the presence of liquid in the secondary containment structure.

A number of automatic leak-detection and monitoring devices are commercially available that could satisfy the proposed definition (e.g., interstitial monitoring between double-walled tanks). These can include probes to monitor for liquid accumulation between the primary- and secondary-containment structures (i.e., flow of waste out of the primary structure into the secondary-containment system or inflow of water into the secondary-containment system from the exterior) or means to maintain a vacuum or pressure between the primary- and secondary-containment structures (loss of vacuum or pressure indicates a leak in the system).

4. Underground Tank

The entire surface area of an underground tank is situated completely below the plane of ground level. The phrase "entire surface area" is intended to mean that, for horizontal tanks, the entire circumference of the tank is within the ground; for vertical tanks, the tank top is situated below the plane of ground level. In most cases, an underground tank is in direct contact with the soil.

5. Ancillary Equipment

EPA considers any equipment used to monitor, distribute, meter, or otherwise control the flow of hazardous waste to or from the storage or treatment tank as ancillary equipment. As discussed below, the Agency is concerned with the failure of ancillary equipment such as piping and pumps and the ensuing releases of hazardous waste to the environment. It is, therefore, subject to the proposed regulations.

6. Existing Tank System

An existing tank system is defined as one that is already in operation or for which installation has commenced on or prior to the effective date of these regulations. The determination of "installation" is tied to several factors, including whether all necessary Federal, State, and local preconstruction and installation approvals or permits have been obtained and whether either physical onsite construction has been

undertaken or contractual obligations have been agreed to by the owner or operator that cannot be canceled or modified without substantial losses if the construction of the site or installation of the tank system is to be completed within a reasonable time.

7. New Tank System

In order for a tank system to be considered "new," its installation must have commenced after the effective date of these regulations. As in the case of existing tank systems, installation will be considered to have commenced if the owner or operator has obtained all necessary Federal, State, and local preconstruction or installation approvals or permits and if either physical onsite construction has been undertaken or contractual obligations have been agreed to by the owner or operator that cannot be canceled or modified without substantial losses if the construction of the site or installation of the tank system is to be completed within a reasonable time.

8. Corrosion Expert

EPA believes that the capability to evaluate the potential for corrosion of a tank system in a particular environment and determine those protective measures needed to prevent corrosion of the tank system is unique to persons trained in this area of expertise. As such, the Agency is requiring that a corrosion expert be used in both the design and installation of tank systems to ensure proper corrosion protection.

A corrosion expert is being defined as a person who, by reason of his knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such person may be a registered professional engineer or may be a person certified as being qualified by the National Association of Corrosion engineers if such licensing or certification includes suitable experience in corrosion control on buried or submerged metal piping systems and metal tanks.

B. Storage in Tanks for Less Than 90 Days (§ 262.34)

Under the existing rules, generators storing hazardous waste onsite in tanks are exempt from having to apply for a RCRA permit if, within 90 days after it was generated, the hazardous waste is moved. (See § 262.34.) Such facilities, referred to as accumulation tanks, must only comply with a limited subset of the Part 265 requirements, including, for example, inspection and operating requirements. As part of the effort to implement more adequately its strategy of protecting human health and the environment from the storage and treatment of hazardous waste in tank systems (see Section IV.D.), EPA is today proposing to require full secondary containment at such 90-day accumulation tank facilities.

The final standards promulgated on February 26, 1980, for generators of hazardous waste did not allow for the accumulation of such waste in storage tanks. As stated in the Preamble to those standards (45 FR 12730), EPA intended to amend the Part 262 generator regulations, subsequent to promulgation of the Parts 264 and 265 regulations, so that accumulation in storage tanks would be allowed.

On May 19, 1980, EPA promulgated interim status Part 265, Subpart J, tank standards. The Part 262 standards were also revised to allow the accumulation of hazardous waste in tanks that meet certain of these interim status standards. The Preamble to the Part 262 amendment (45 FR 33141) stated that Part 262 might be amended again to include the final Part 264 standards. EPA's intent was clearly indicated in the background document to the May 19, 1980, amendment to Part 262: "there is little difference between [short term] accumulation and [long term] storage so far as potential damage to human health and the environment is concerned, and therefore, the same standards for protection of human health and the environment should apply." No additional amendments to the Part 262 standards have been promulgated, however, subsequent to the May 19, 1980 revisions.

EPA continues to believe there is little difference between these 90-day accumulation tanks and other storage tanks. For example, additional EPA data have indicated that the annual throughput of waste in these tanks and the types of wastes stored at 90-day facilities are, generally, the same as at other hazardous waste tank facilities. Thus, the potential for release resulting from failure of the tank system is probably the same. In fact, because waste is handled more when it is moved from tanks within a 90-day period, the probability of a release owing to a spill, accident, or other incident may be increased at these accumulation facilities. Also, because of the high throughput of wastes at many of these facilities, the amount of waste released may be greater if it remains undetected for a long period of time.

In light of the above, EPA has reevaluated the existing regulations for 90-day accumulation tanks and has decided that these standards are inadequate. The Agency considered two basic technical options in attempting to upgrade these standards.

1. Add a Secondary-Containment Requirement to the 90-Day Rule

Under this option, a significant degree of environmental protection would be attained by adding full secondary containment for all 90-day accumulation tanks to the existing requirements. Under this option there would probably be little, if any, involvement of the owner or operator with EPA in establishing the secondary-containment system; thus, there could be some uncertainty about the proper design, installation, and maintenance of such systems.

2. Require Ground-Water Monitoring

The Agency considered the ground-water monitoring option as an amendment to § 262.34, but decided that this would be unworkable because such an approach would require significant contacts between facilities and the Agency. Thus, EPA is not allowing 90-day accumulators the option of ground-water monitoring because, in the absence of requiring a permit, the implementation of such monitoring would not be feasible without the interaction that would be needed to assure proper compliance.

In reviewing these two options, EPA became aware that no one option presents an ideal solution, but concluded that full secondary containment would be the most feasible. As a result, EPA has decided that such tanks should be allowed to continue operation under the 90-day accumulation exemption provided that the owner or operator of the facility installs full secondary containment. The risk assessment the Agency is preparing for the final rule may change this conclusion.

Under today's proposed revisions to the 90-day accumulation rule, full secondary containment would be phased in over a 1-year period to provide sufficient time for installation of the secondary-containment system. (See proposed § 262.34(a)(2).) At those tank facilities where full secondary containment is not provided, the owner or operator has the option of closing or—if it is an existing facility—applying for a RCRA permit, which would allow the ground-water monitoring alternative to be selected. The Agency believes that this approach will provide necessary

protection of human health and the environment in a relatively short period of time and still afford the owner or operator of each facility some flexibility in determining the appropriate method of protection for his particular situation.

As with any metal tank system, EPA is concerned about corrosion in 90-day accumulation tank systems. (A discussion of corrosion and its control is presented in Section V.E.2. of this Preamble). Since corrosion is the primary cause of failures in metal tank systems, the Agency is considering requiring an assessment of the need for and the installation of corrosion-protection measures for 90-day accumulation tank systems. This approach is similar to that for interim-status and permitted hazardous waste tank facilities. Public comment on the appropriateness of corrosion protection at these facilities is requested.

C. Ground-Water Protection for Tank Systems

EPA recognizes that there are certain situations (especially when the retrofitting of existing tanks is involved) where it is impractical, perhaps impossible, to provide full secondary containment at individual tank facilities. For example, it may be impractical to retrofit secondary containment beneath the tank system without completely dismantling (and perhaps destroying) the tank. In order to provide an option to full seconday containment for such facilities, while at the same time ensuring protection of human health and the environment, EPA is proposing that owners or operators of existing tank systems be allowed to provide partial secondary containment for above-ground portions of the system, leak testing every six months of underground tanks, thorough periodic assessments of inground and aboveground tanks, and a ground-water monitoring program. EPA believes that such a program will protect human health and the environment for a number of reasons. First, leak testing underground tanks every six months and performing a periodic thorough assessment of inground and aboveground tanks should assist in detecting leaks so that they can be responded to before they enter the ground water. Secondly, spills and leaks from above-ground portions of the system will be contained by the partial secondary containment system. Finally, ground-water monitoring will guarantee that releases that do enter the ground water are detected and responded to.

Because ground-water monitoring is one of the components to the alternative to full secondary containment, it will have to be assessed by the owner or operator for feasibility of implementation. Inherent in a ground-water monitoring program is the need for corrective action should a hazardous constituent from a tank enter the ground-water at unacceptable levels. Owners or operators will have to weigh carefully the liabilities associated with this provision. They will also need to consider such other factors as the complexity of a monitoring and response program, the size of the tank facility, and the costs of retrofitting it with secondary containment. In many cases analyzed by the Agency, full secondary containment for existing tank systems, although initially capital intensive, proves to be comparable in cost with the ground-water monitoring alternative when the costs are annualized over a 20-year life of the tank system.

EPA is also proposing that the ground-water monitoring alternative not be allowed at new facilities. (See Section V.E.4.f. for a description of this proposed Part 264 requirement.) The Agency has concluded that it is less expensive to install full secondary containment when a new tank system is being constructed than to conduct a ground-water monitoring program for the life of the facility (even when not including post-closure care). The Agency specifically requests public comment on this conclusion and the Agency's decision to require full secondary containment for all new tank systems.

Proposed § 264.193 requires that owners and operators of tank systems that do not have full seconday containment implement a ground-water monitoring program unless they obtain a waiver from these requirements under § 264.193(i).

Proposed § 264.193(g) sets forth the requirements of this ground-water monitoring program. Under this section, an owner or operator would be required to install a ground-water monitoring system at a compliance point specified in the facility's permit. The owner or operator would then be required to monitor for indicator parameters, waste constituents, or reaction products also specified in the permit. The owner or operator would be required to sample the ground-water quality at each monitoring well at the compliance point at least semi-annually and determine whether there has been a statistically significant increase over background values for any parameter or constituent specified in the permit. Upon a determination that there has been a statistically significant increase in such parameters or constituents, the owner or operator would have to notify the Regional Administrator and assess the integrity of the tank system.

The requirements of proposed § 264.193(g) are nearly identical to several requirements of Part 264, Subpart F, specifically the general ground-water monitoring requirements of § 264.97 and the detection monitoring requirements of § 264.98(a)–(g). Rather than adopt all Subpart F requirements for tank systems § 264.193(g) would incorporate only those requirements of Subpart F that are applicable to a detection monitoring program. Thus, owners and operators would not be subject to compliance monitoring or corrective action requirements similar to those required under Subpart F, §§ 264.99 and 264.100.

EPA chose this modified version of the Part 264, Subpart F standards for incorporation into Subpart J because of the new corrective action authority it has under RCRA section 3004(u). Section 3004(u), which was added to RCRA by the 1984 amendments, provides EPA authority to require corrective action at any solid waste management unit located at a facility seeking a permit under Section 3005. Once a release is detected under proposed Section 264.193(g) and the Regional Administrator is notified, therefore, EPA will have the authority to require whatever measures are appropriate to confirm the leak and to implement corrective action where necessary to protect human health and the environment. EPA believes that reliance upon this authority, rather than incorporation of Subpart F compliance monitoring and corrective action requirements, will give the Agency greater flexibility to fashion response and corrective action measures that are appropriate for tank systems.

EPA seeks comment on this approach it is proposing today and upon the alternative of simply applying the existing complete Part 264, Subpart F Ground-Water monitoring requirements to tank systems.

Although EPA is proposing to adopt certain subpart F requirements for permitted tank systems, the Agency believes that it is not necessary to follow this same approach for interim status tank systems. The existing Part 265, Subpart F standards are appropriate for the detection of releases from interim status tank systems. Any subsequent corrective action can be implemented via the authority granted in 3008(h) of RCRA. Public comment is sought on the appropriateness of applying the Part 265, Subpart F Ground-Water Protection standards to interim status tank systems.

One area of concern regarding the application of the proposed ground-water requirements of § 264.193(g) to tank systems is defining the waste management area to be monitored. EPA is concerned that extensive waste management areas (as could be the case when long lengths of piping are included) could pose a problem with respect to specifying the number and placement of monitoring wells necessary to ensure detection of a release from the tank system. Another important issue with ground-water monitoring of tank systems is how to monitor effectively for a leak from any individual tank system if it is in a conglomeration of tanks, for instance, in a tank farm. Public comment on this issue is requested.

Under the existing tank standards, releases from tanks can enter the environment and could go undetected indefinitely. Thus, pollution of ground water could continue unabated until it has a significant impact on human health or the environment. Imposition of the ground-water protection requirements as well as the requirement for partial secondary containment for above-ground portions of the tank system, tank assessments for inground tanks, and leak testing for underground systems at existing tank facilities should prevent such events.

D. Financial Responsibility (Parts 264 and 265, Subpart H)

Today's EPA is proposing amendments to the existing tank closure standards that require certain postclosure responsibilities for tank systems not using full secondary containment. These post-closure requirements would apply at such facilities if, at closure, contaminated soils and/or ground water (if any) cannot be removed or decontaminated. (See V.E.8. for a more detailed discussion of these new post-closure requirements for tank systems). In addition to the above amendments to the existing tank closure standard, today's proposal also includes a change in the applicability section of § 264.140(b): financial assurance for post-closure care requirements. This change proposes that a financial assurance mechanism for post-closure be established for tank systems subject to proposed § 264.197 postclosure requirements. Under this provision, each tank system not using the full secondary-containment approach must have sufficient resources to carry out post-closure care if, at closure, hazardous waste is found to have been released into the environment and all such waste cannot be practicably removed or decontaminated.

EPA is also proposing changes to Part 265, Subpart H, that require tank systems without full secondary containment to obtain financial assurance for post-closure care. These revisions are the same as those being proposed under Part 264, Subpart H.

E. Tank System Design, Installation, and Operating Standards (Part 264, Subpart J)

In order to provide for better management of hazardous waste in tank systems, today's proposal makes several changes in the existing design, management, and operating standards for permitting tank systems (Part 264, Subpart J). These revisions propose to delete some of the existing standards (e.g., minimum tank shell thickness), modify others (e.g., inspection requirements), and add new ones (e.g., secondary containment and ground-water monitoring program). Because of the large number of changes to Subpart J proposed today, only the standards that are being deleted, modified, and added are discussed in this Preamble.

In developing today's proposed revisions to the existing design and operating standards, EPA has considered all of its previous rulemaking activities (see the discussion in Section II.B.), comments received on these earlier actions, and data obtained from EPA studies on the management of hazardous waste in tank systems.

1. Applicability (§ 264.190)

The existing RCRA permitting standards apply to all tank systems that treat or store hazardous waste, except for covered underground tanks that cannot be entered for inspection. In the Preamble to the January 12, 1981, regulations (46 FR 2831), EPA revealed it had knowledge of several significant damage cases caused by releases from nonenterable underground tanks, but had no sure strategy for preventing such disasters. Public comment was requested on the option of completely banning treatment or storage of hazardous waste in such tanks. Opponents of a ban were asked to provide information on adequate protection methods at such facilities. The Agency indicates that covered underground tanks that cannot be entered for inspection could continue to operate under interim status, but could not receive RCRA permits until final rules were established for them. As discussed in Section IV.C., those who commented suggested several reasons why this type of tank should not be banned, including: local fire codes, the scarcity of space for storage in aboveground tanks, and the costs of developing alternatives. The consensus was that underground tanks can be designed, installed, and operated in a manner that will protect human health and the environemnt.

Today's proposed changes to the technical requirements have been developed to ensure the proper management of these tank systems. Therefore, this proposal deletes the existing § 264.190(b), thereby making the Subpart J standards applicable to all tank systems, including underground tanks that cannot be entered.

In the Preamble to the January 12, 1981, tank permitting standards, EPA solicited comments on the advisibility of allowing the storage of hazardous waste in tanks that are situated in the water table (46 FR 2833). Most of those who commented believed such a ban was unreasonable and unnecessary and that proper design, installation, and operating practices would ensure that hazardous waste is not released to ground water. In light of the tank system permitting standards proposed today (e.g., corrosion protection, installation requirements, secondary containment, leak detection, etc.), EPA believes that tank systems can be managed in an environmentally safe manner even if not enterable for inspection or when located in ground water.

In sum, today's proposed Subpart J standards close an existing gap in the coverage of the RCRA tank standards by making them applicable to all tank systems managing hazardous wastes.

2. Design of Tank Systems (§ 264.191)

As discussed in Section III.C., the Agency has previously adopted a three-part regulatory strategy for storage of hazardous waste. For tank systems, this consists of proper design and operation of primary containment, inspections, and secondary containment. The following discussion relates to the proposed deletions, revisions, and additions to the existing § 264.191 design requirements for tank systems; inspection and secondary containment are addressed later in this Preamble.

a. *Minimum Shell Thickness.* The Preamble to the January 12, 1981, regulations (46 FR 2831–2832) includes a discussion on minimum tank shell thickness that is provided in support of the existing design requirements. Those standards require the establishment and preservation of a minimum tank shell thickness supplemented by an inspection program to ensure that the tank's integrity is maintained.

Because they were interim final standards, EPA received several comments on them. Most of those who commented strongly opposed the design requirements for minimum shell thickness. One of their main reasons for opposing this requirement was the belief that EPA should not be involved in the establishment of such standards since tanks are typically designed in accordance with nationally acceptable standards established by, for example, API, Underwriters' Laboratories (UL), and the American Society of Mechanical Engineers. Those who commented considered EPA's involvement in such design considerations to be redundant and time consuming. They also pointed out that many existing tanks are nonspecification tanks (not built to nationally established standards), for which much of the original design information may not be available, and suggested that such tanks be granted a permit based on a demonstration to EPA that the tank is sufficiently sound to justify its use for storage or treatment of hazardous waste.

Other comments concerned the technical aspects of measuring shell thickness. Several of those who commented indicated that it is extremely difficult, if not impossible, to measure tank shell thickness. They pointed out that, in many cases, such measurements can only be taken from the inside of tanks whose interiors may be inaccessible. They also expressed their belief that considerable burden is placed on facilities that must shut down a manufacturing process in order to take the tank out of service for internal inspection. In addition, they reported that the costs of emptying and cleaning a tank and disposing of its contents are unjustified. For example, EPA estimates that the cost of emptying, cleaning, and properly disposing of contents of an 8,000-gallon steel tank is approximately $1,000.

Among the other concerns associated with shell thickness, those who commented pointed out the following. In many cases, measurements can give unpredictable and inaccurate results and may be of no value in fiberglass, lined, coated, or insulated tanks. It is impractical to measure tank bottoms because of the high cost of cleaning to the point where measurements can be taken. Standard practice in measuring metal thickness is to make "spot checks" of the tank shell rather than measuring the entire shell surface. These spot checks usually cover as little as 1 to 10% of the shell surface. For the portion of the tank universe constructed of concrete, the requirement may be unimplementable because wall composition for this type of tank is comprised of a variable distribution and orientation of aggregate so that it is unlikely that ultrasonic testing devices could be easily calibrated to accurately test such tanks. The safety of personnel taking measurements inside tanks must also be considered. Unless effective cleaning procedures have been used, there is the possibility that toxic fumes will be present or that an explosion may occur. Several of those who commented suggested that alternative inspection methods (e.g., hydrostatic testing, x-raying) for metal tanks should be allowed or that internal inspections should be performed only during normal tank shutdowns.

EPA generally agrees with those who commented that the minimum shell thickness requirement should be deleted, given the following facts. This requirement has proven difficult to implement. It has been an unjustified burden on many owners or operators of tank facilities, especially those with secondary containment. It is of limited effectiveness in controlling releases from tanks.

EPA has reviewed data regarding the failure of tank systems and has concluded that the overwhelming number of reported releases from such systems have resulted from occurrences other than failure of the shell. An analysis of over 2,000 incidents of spills of oil or hazardous substances reported under EPA's Spill Prevention Control and Countermeasures Plans (SPCC) and the Coast Guard's Pollution Incident Reporting System (PIRS) reveals that between 40 and 50 percent of the spills resulted from failure of piping or ancillary equipment (pumps, valves, etc.). Another approximately 40 percent of the reported spills were attributed to operational deficiencies (overfilling, operators' errors). Less than 10 percent of the spills could be related to releases resulting from failure of the shell.

On the basis of information it has accumulated, public comments, and permitting officials' experiences with implementing the shell thickness requirement, EPA has reconsidered the effectiveness of shell thickness determinations in the overall regulatory strategy for managing hazardous wastes at tank facilities. The Agency concludes that in view of all the technical, safety, and cost issues associated with the determination of tank shell thickness, the existing standard is not effective and, therefore, not warranted. Accordingly, today's amendments propose to delete this requirements from § 264.191.

b. *Tank Systems.* The existing Subpart J requirements focus primarily on the storage or treatment tank itself and generally ignore ancillary equipment. Today's proposal emphasizes the term "tank system," which is meant to assure that both ancillary equipment and the tank itself are covered. Thus, any equipment used to distribute, meter, or control the flow of hazardous waste to or from the storage or treatment tanks as well as the tanks themselves are included in the term "tank system."

The significance of including a hazardous waste tank's ancillary equipment (including piping) is demonstrated by the SPCC and PIRS data, which show that piping and ancillary equipment failures may account for up to 50 percent of releases from tank systems. A survey by API of leaks from gasoline storage tanks corroborates these data. In addition, discussions between the Agency and several tank-testing companies verify that at least 50 percent of leaks from tank systems can be attributed to piping problems.

As a result of all this evidence, the Agency has concluded that both the tank and its ancillary equipment must be considered in EPA's regulatory strategy to protect human health and the environment from the release of hazardous waste from tank facilities.

c. *Corrosion Protection.* As discussed in Section IV.B.3., corrosion is the major cause of failure of metal tank systems. Internal corrosion (which according to a recent report accounts for between 10%–29% of corrosion-induced tank failures) is usually prevented by assuring compatibility of the inner surfaces of the tank system with the material to be stored in the tank system. Although corrosion of metal owing to atmospheric conditions is also of concern, the most serious corrosion problems are associated with metal tanks that are in direct contact with surrounding soils. Information received since the January 1981 regulation was promulgated has persuaded EPA that, as part of the process of designing a tank system, it is important to assess the potential for corrosion specific to the soils in which the metal components of the system are placed. It would seem prudent, therefore, to situate the tank system at the location with the least corrosion potential and, when necessary, to incorporate appropriate measures to control corrosion.

A study by API of nearly 2,000 leaks from underground gasoline tanks demonstrates the impact of corrosion in the management of tanks. This study found that between 75 and 80 percent of

the leaks were attributable to tank and/or piping failure resulting from subsurface corrosion. Additional studies of leaks from underground tank systems by New York, California, and Michigan also point to corrosion as a leading factor in the failure of metal tanks and piping. It is inevitable that the majority of unprotected metal tank systems in contact with the ground will experience some degree of corrosion over the life of the system. Data from the API study show a significant increase in detected leaks in both steel tanks and steel piping older than 5 years of age. It is assumed that the higher incidence rate of leaks at older facilities is caused primarily by corrosion.

In order to evaluate the occurrence of leaks in tanks resulting from subsurface corrosion, it is necessary to go beyond the general conclusions that can be derived from the API survey results. A separate statistical study on tank leaks was conducted for API entitled "Underground Unprotected Steel Tank Study: Statistical Analysis of Corrosion Failures." This study showed that the tank's age, by itself, is not necessarily the best predictor of a corrosion-induced failure. The prediction must also take into account such factors as soil resistivity, pH, moisture, the level of sulfides in the immediate backfill materials that are in contact with metal components, the influence of nearby underground metal structures, and the effects of stray current. The information gathered under this study indicates that 77 percent of steel tanks will point-corrode (develop holes caused by accelerated corrosion at localized areas in the tank system), while the other 23 percent of tanks may corrode on a more uniform basis (and thus not develop holes) over even a longer period of time. The study cautions, however, that certain corrosion-inducing conditions could cause a leak in a steel tank system within as short a time as a year or two of its installation.

This study also concluded that (taking into account the various factors mentioned above) tanks of 12 years of age in saturated soil conditions have a 50 percent probability of leaking. In unsaturated conditions the 50 percent probability of leaking occurs at 21 years of age. Overall, the data indicate that the mean age for tank leakage is around 16 years; that is, 50 percent of all tanks will have developed a leak as a result of subsurface corrosion by the time they are 16 years of age.

A company specializing in cathodic protection has reported on the age to leak rates of 800 tanks in Ohio. Their data show that at leas one underground metal tank failure can be expected in 55 percent of the gasoline stations over a 15-year period and that failures can be expected at 70 percent of the stations in 20 years. It was also reported that the life of the tanks in areas such as New Jersey, Pennsylvania, Ohio, Indiana, Michigan, and Illinois rarely exceeds 12 years.

There have been a number of studies on the occurrence of leaks in underground piping. The National Association of Corrosion Engineers (NACE) reports that, if the accumulated number of leaks in underground piping is plotted against time, an exponential curve is derived. This exponential curve is noticed starting at approximately 5 years from installation. The curve indicates that the cumulative number of leaks subsequently increases by a factor of 10 every 6 years.

EPA believes that the foregoing data indicate that once a steel tank system that is in contact with surrounding soil is 5 years of age, concern for leaking should be intensified. Extreme caution should be exercised once such an unprotected steel tank system reaches 10 years of age.

EPA data show that over 60 percent of the underground tanks and 30 percent of the inground tanks used to store hazardous waste are constructed of carbon steel. Most large steel aboveground tanks are placed directly on the ground or a concrete foundation and, thus, may be subject to bottom corrosion. The overwhelming majority of these tanks do not have corrosion protection. Taking into account the analyses provided above and considering the fact that 50 percent of the existing steel underground tank systems are over 8 years of age (25 percent are more than 15 years old), EPA has concluded that many existing steel tanks may now be leaking. In order to ensure the integrity of a steel tank system, one must establish and maintain corrosion protection over its entire life. Assessing the potential for corrosion at the site where the tank system is or will be established is the first step in this process. Specific requirements being proposed today for achieving corrosion protection at hazardous waste tank systems are discussed below.

d. *Engineer's Assessment of the Tank System's Design.* As discussed in Section III. C., the proper design and operation of the primary containment device is the first step in the Agency's three-part regulatory approach for the storage of hazardous waste. Therefore, to replace the minimum shell thickness requirements that are being deleted today, the Agency is proposing a substitute approach for ensuring that the design of hazardous waste tank systems is appropriate and adequate. The new approach requires owners and operators of all tank systems to submit, as part of the permit application, a written assessment and certification by a qualified registered professional engineer of the tank system's design and suitability for handling hazardous waste.

In using the term "qualified registered professional engineer," EPA intends that the person employed to provide the assessment and certification be a registered professional engineer who is qualified to provide such an assessment by reason of his knowledge of principles of engineering, acquired by professional education and related practical experience. As such, the Agency does not necessarily believe that *any* registered professional engineer can adequately fulfill this role. For example, an electrical engineer, although registered as a professional engineer, may not necessarily have the professional training or experience to assess the structural integrity of a tank system, secondary containment system, etc. EPA believes that persons trained in the fields of chemical and/or civil engineering are likely to be best qualified to provide the assessment required in § 264.191. Public comment on a definition of qualified registered professional engineer is invited.

This proposed requirement is partly intended to provide a substitute for the extensive engineering-related calculations and judgmental reviews that are now being required for permitting under the existing standards concerning minimum tank shell thickness. As discussed above, the limitations of this approach have convinced EPA that the structural integrity of a tank system can be more easily and quickly assessed by a professional engineer who attests to the system's overall capability for managing hazardous waste. Proposed § 264.191(a)–(e), discussed below, provide the specific design criteria that must be addressed in this assessment. The information required to be provided in this assessment differs slightly for new and existing tank systems.

Proposed § 264.191(a) (1)–(2) require that the engineer's assessment include the design standard to which new tank systems are constructed. Adherence to nationally accepted design standards such as those published by API, UL, and the American National Standards Institute would convince EPA of the structural integrity of the tank system. The assessment of each new

nonspecification tank system would need to demonstrate that it was constructed in accordance with sound engineering principles. In assessing the appropriateness of a new tank system's design, the engineer must also determine whether the design will enable the system to handle the wastes planned for it. (See § 264.191(a)(3).)

The engineer's assessment of existing, used, and reused tank systems can likewise demonstrate that the tank system was constructed in accordance with a specific design standard. Such design information may not be available, however, at many existing facilities. Thus, the engineer's assessment must consider such design information only if it is available. (See proposed § 264.191(b)(1).) The assessment of existing, used, and reused tank systems must provide, at a minimum, a description of the tank system, including its size, age, and materials of construction. (See § 264.191(b)(2).) In addition, the assessment must address the ability of an existing system to contain the wastes to be handled, including a consideration of the wastes' characteristics (e.g., corrosivity, reactivity). (See § 264.191(b)(3).) For example, it must be determined that a used FRP tank that may have been built for storage of a certain chemical (thus requiring the use of a specific resin) is able to be used for the waste to be stored. Communication with a resin manufacturer may be necessary to determine compatibility of the tank with the waste.

In order to assess whether an existing underground tank's shell is structurally sound and able to handle the quantity and type of waste(s) to be managed, proposed § 264.191(b)(5) requires that testing methods be employed to ensure the structural integrity of existing underground tanks. (See Section IV.B. for a detailed discussion of such methods.) For existing aboveground and inground tanks that can be entered, the Agency believes that an internal inspection of the tank conducted within one year prior to permitting will provide sufficient information to complete the structural assessement of these types of tanks. EPA believes that a qualified registered professional engineer given the results of testing and inspection, the available data on design, and the tank's intended use, can assess and certify whether a particular tank should be used for storing or treating hazardous waste and estimate the remaining life of the tank system. (See § 264.191(b)(4).)

EPA believes that it is important for the engineer's assessment to consider some other factors as well. One such factor is the potential for corrosion. Therefore, as part of the process of assessing a metal tank system, the engineer must obtain an assessment from a corrosion expert of the potential for corrosion at the location where metal components of the tank system are or will be in contact with the soil. This assessment must incorporate, when necessary, appropriate measures to control corrosion of the tank system. Proposed § 264.191(c)(1) provide the criteria to be used in assessing the corrosion potential of a site and in establishing the need for corrosion-protection measures for tank systems.

Corrosion is influenced by many factors. This assessment should consider such factors as soil moisture content, soil pH, bacterial action (sulfides level), soil resistivity, structure to soil potential, stray electric current, influence of nearby underground metal structures and existing corrosion-protection measures (e.g., coatings). The presence of one or more of these parameters and their synergistic role in promoting corrosion must be determined on a site-by-site basis. Professional engineering judgement should determine other parameters as necessary in order to make a satisfactory assessment of corrosion potential. For example, this determination may depend on individual site conditions (e.g., the existence of another nearby tank system, fluctuating water table, etc.). EPA intends that this assessement be conducted for all metal tank system in contact with soil, including systems that have secondary containment. For example, a tank that is situated within a vault or a lined excavation and that is backfilled within the secondary containment may pose the same potential for corrosion of the external surface of the metal components of the tank system as would any metal tank system that is not isolated from the surrounding environment . Tank systems with secondary containment (e.g., those within a liner or concrete vault) may already be somewhat protected from corrosion by being constructed of corrosion-resistant materials or by the use of certain types of backfill materials within the containment system to deter corrosion. However, unless the ancillary equipment is also so protected and is isolated from the host soil, a galvanic current may be developed between the soil, piping, and tank, thereby resulting in corrosion.

The requirements of §§ 264.191(c) (1) and (2) provide the corrosion expert with factors that must be assessed in determining whether corrosion protection may be necessary and, if so, the types of such protection acceptable to EPA. The Agency believes that well-established engineering standards for each for the parameters listed in § 264.191(c)(1) are available to assess the corrosion potential of a site. Having conducted this assessement, the corrosion expert can then proceed to define what, if any, corrosion-protection measures are needed to control corrosion of the tank system. Any existing corrosion-protection measures already incorporated into the tank system should, of course, be considered in assessing the need to provide additional corrosion protection.

Other factors that the engineer must consider in assessing the overall design of a tank system are included in proposed §§ 264.191 (d) and (e). Section 264.191(d) requires a determination of measures to protect underground equipment from damage resulting from vehicular traffic, including the weight of the traffic and vehicular contact with exposed portions of tank systems (e.g., vent lines, fill pipes). Guard rails or similar types of barricades around the components susceptible to damage would be appropriate.

As part of the overall design of a tank, § 264.191(e) requries proper design of the tank's foundation so that a full tankload can be maintained. Also, in areas where tanks and piping are located in seismic fault zones subject to the location requirements of § 264.18(a), the tank system must be designed so that these factors will not pose adverse effects on it, e.g., dislodging or flotation. The same design consideration must also be given to tank systems situated in a saturated zone, even if saturated conditions exist at only certain times of the year. EPA also considered applying this requirement to tank systems that are located in floodplains subject to the requirements of § 264.18(b). The Agency chose not to propose this requirement for tank systems in floodplains because it is not sure whether this requirement is necessary given the requirements of § 264.18(b). Public comment on this issue is invited.

3. Installation of New Tank Systems (§ 264.192)

The Agency believes that the proper installation of new hazardous waste tank systems is as important as their proper design. Thus, the Agency has concluded that this facet of new tank system management must be regulated to assure that proper installation practices will be employed. Improper installation of tank systems can result in immediate or future releases of hazardous waste into the environment.

Under § 264.192 facilities seeking a RCRA permit would have to adhere to the new installation standards discussed below.

Proposed § 264.192(a) requires that installation be observed by a person trained in the proper installation of tanks who will certify that the tank system was properly installed. EPA believes that persons such as a certified building inspector, fire marshal, qualified representative of the tank manufacturing company, or a registered professional engineer can fill this role. Public comment is welcome on the subject of certification of proper installation. Proper handling and installation practices are needed to protect against weld breaks, punctures, loose fittings, scrapes, cracks, or other structural damage to the tank system. EPA recommends that persons inspecting tank system installations use a checklist containing, at a minimum, all of these items which are required to be inspected under § 264.192(a).

A number of considerations are involved in the installation of new tank systems. First, the Agency believes the proper installation of new metal tank systems is important because of corrosion. This includes consideration of the design at the excavation location, appropriate choice of backfill material, and proper handling of metal components.

As discussed previously, corrosion plays an important role in debilitating the integrity of metal tank systems, thus causing failure of the system. Although corrosion of metal is to a certain degree a natural process, its initiation and progression can be significantly arrested by such precautions as providing corrosion-resistant materials of construction, coatings, cathodic protection, and isolation of the system. The primary goal of corrosion protection is to eliminate localized anode activity, that is, areas of concentrated corrosion. The extent of this problem is demonstrated by a study by the National Bureau of Standards, which found that over 90 percent of corrosion damage on underground pipelines results from this type of corrosion action. For corrosion-protection measures to work effectively, it is important that steps be taken to prevent damage to the tank system during installation. Unsuitable types of backfill or backfilling methods or improper or careless installation resulting in scrapes of protective coatings, cracks resulting from careless handling, or other structural damage to the tank system can lead to corrosion.

Second, the proper installation of fiberglass reinforced plastic (FRP) tanks is also critical. One of the leading causes of failure of FRP tanks is, in fact, faulty installation. The structural integrity of an underground FRP tank (as well as an underground metal tank) depends largely on the support provided by the surrounding soils. EPA has no evidence that the load-bearing strength of FRP tanks is less than that of underground steel tanks. The Agency believes, however, that FRP tanks are more vulnerable to certain other types of structural failure than underground steel tanks. FRP tanks seem, particularly, to be more susceptible to puncture and may be less able to tolerate torsional or flexural stress. It is crucial, therefore, that the type of backfill and the placement of the backfill material do not puncture the tank or result in voids or "soft spots" around the tank. Failure of an FRP tank owing to breakage resulting from faulty installation and backfilling presents significant risk to the environment because it could allow, in a short period of time, the release of a major portion of the tank's contents into the environment. Today's proposal requires the use of noncorrosive, porous substances such as sand or pea gravel for backfill material of tank systems inside a secondary containment system and that underground tanks are carefully backfilled so that the backfill is placed completely around the tank and compacted to ensure that the tank is fully and uniformly supported. Most manufacturer's specifications for backfilling tanks satisfy these requirements and should thus be strictly adhered to. These requirements are intended not only to prevent structural failures, but also to reduce corrosion potential, which EPA believes can best be accomplished during the installation of tank systems. The inspector's checklist should also address this concern.

EPA also believes it is good practice to test or inspect all new hazardous waste tank and piping systems for tightness and integrity before they are actually put into service. The Agency considers it particularly important to test or inspect the components of new tank systems that will be in contact with or covered by the surrounding soil or backfill because, once in service, they will for the most part be inaccessible for routine visual inspections. Thus, § 264.192(c) proposes that components of new tank systems must be tested or inspected for tightness and repaired, if leaking, prior to being covered, enclosed, or put into service. Adherence to appropriate industry guidelines, such as API Publication 1615—*Installation of Underground Petroleum Storage Systems* and ANSI Standard B 31.3—*Petroleum Refinery Piping* and ANSI Standard B 31.4—*Liquid Petroleum Transportation Piping System*, will ensure that piping systems are adequately supported and protected against physical damage and stress as required in proposed § 264.192(d). Finally, § 264.192(e) requires that the corrosion protection measures determined to be needed by the Regional Administrator per § 264.191(c) be provided at the time the tank is installed and that the installation of such measures be overseen by a corrosion expert.

4. Secondary Containment for Tank System (§ 264.193)

EPA believes that tank systems (tanks and their ancillary equipment) used to store or treat hazardous waste should be managed in a fashion that prevents releases that pose a threat to human health and the environment. As discussed in Section IV.D., this approach carries out the Agency's regulatory strategy for storing hazardous waste, which emphasizes the containment of such releases.

Following promulgation of the January 12, 1981, regulations EPA undertook an extensive study of the causes of releases from tank systems and compared the results to the design, installation, operation, and maintenance practices that are required by the existing RCRA tank regulations. EPA has concluded that even if these existing requirements are strictly adhered to, releases to the environment are likely to occur at some time over the life of the system. For example, the existing requirements do not prevent releases from spills and overfilling caused by operators' errors and malfunctioning equipment, failures of ancillary equipment, and releases from tanks corroded by surrounding soils.

The Agency has evaluated several protective measures to determine whether their use might achieve the regulatory strategy of protecting human health and the environment. (See Section IV.B. for a brief discussion of the various protective measures considered.) This effort has resulted in today's proposal to require full secondary containment for new tank systems and full secondary containment or the ground-water monitoring alternative for existing tank systems.

EPA's proposal in §264.193, to require the use of full secondary containment for hazardous waste tank systems, is perhaps the most significant change to the Subpart J tank permit standards being proposed today. The following discussion highlights the issues

considered by EPA in determining today's proposed approach to full secondary containment for tank systems. The Agency's rationale for this part of the proposal is also provided. Finally, each of the proposed requirements is discussed in detail, including the way they will be applied.

a. *Background to Today's Proposed Approach.* As mentioned previously, EPA first proposed standards applicable to the storage and treatment of hazardous wastes in tanks on December 18, 1978. That proposal included a requirement for an impervious, continuous base and spill-confinement structures (e.g., diking) completely surrounding aboveground tank storage areas. These proposed requirements were not included in the January 12, 1981 interim final rules for permitting hazardous waste tanks, however, because the Agency decided it did not have sufficient data at that time to determine what, if any, secondary containment was appropriate. Following suggestions by several of those who commented on the December 18, 1978, proposed rules, EPA instead decided to emphasize the establishment and maintenance of a minimum shell thickness as the means of assuring the tank's integrity.

In the Preamble to the January 12, 1981, regulations, EPA again raised the issue of secondary containment for tanks. The Agency indicated its intention to propose a future secondary containment for tanks, as an addition to Part 264, and solicited public comment on the need for and effectiveness of three secondary containment options for tanks: (1) Complete containment, (2) variable containment, and (3) runoff collection for the containment of catastrophic failures. Complete containment—the most protective approach—consisted of placing an impermeable barrier between the tank's primary containment structure and the environment. The variable containment approach would allow a varied degree of containment based on an assessment of the likelihood of a spill or leak in any given area of a particular tank facility (e.g., the placement of an impervious barrier in the vicinity of valves, pumps, pipe attachments, or at the base of the tank.) The runoff collection approach—the least stringent option—would simply consist of diking or a drainage system designed to prevent the surface spread of a catastrophic release, such as from complete failure of the tank, and would not be designed to protect ground water from leaks or spills. (See 46 FR 2833, January 12, 1981, for a more detailed description of these options.)

EPA received several comments concerning secondary containment. There were only a few exceptions to the consensus that it is appropriate to consider at least some form of secondary containment at hazardous waste tank facilities. One of those who commented expressd the view that secondary containment (of any type) is not justified because routine inspections provide adequate warning of releases. Two other commenters held the view that inspections significantly reduce the need for secondary containment.

The Agency has concluded, however, that the use of inspections alone will not detect all releases from tank systems. While inspections can detect some problems before they actually result in a release, they cannot detect all potential problems (e.g., faulty equipment). Furthermore, some releases actually occur when facility personnel are present, as, for example, when operators overfill tanks. Finally, releases from tank systems with components hidden from view (for example, underground piping) cannot be detected through routine inspections.

Among those who commented that some form of secondary containment should be considered, at least half believed that the curtailment of catastrophic releases (the third option) is the preferred approach for hazardous waste tanks, or that it should be at least the starting point in case-by-case determinations of whether an increased level of containment (the first or second option) is appropriate. The Agency has elected, based on preliminary data, however, not to adopt the third option in the proposed rule. Information from the risk assessment being prepared for the final rule may alter this decision, however.

As discussed in the Preamble to the January 12, 1981 rules, the major problem with this approach is that it does not protect ground-water resources; thus, even contained catastrophic surface releases could enter ground water and migrate offsite. In addition, the Agency has new information demonstrating that some of the most frequent releases from aboveground tanks are spills caused by operators' errors and malfunctioning equipment. Under the third option, these spills would be allowed to leak onto or under the ground's surface. Such releases could, over time, have the same adverse impacts on ground water as catastrophic releases. In the Agency's files are several damage cases where such spills have apparently had a significant cumulative impact on nearby ground water. The Agency also has significant new information about the most frequent releases from inground and underground tanks. The third option would allow most, if not all, of these releases to enter the environment. For example, releases caused by corrosion of the primary containment system in the soil (e.g., metal tanks or pipes) would not be covered. Although the Agency has chosen not to propose the third option, it is still concerned that catastrophic surface releases may occur (albeit in frequently) at some aboveground tank facilities. The Agency's preliminary conclusion is that this threat is best addressed as part of a complete containment approach (the first option).

Approximately half of those who commented suggested that the level of secondary containment provided by the first or second option should be decided on a case-by-case basis. Several stated that the Agency must consider the feasibility and costs associated with retrofitting complete secondary containment before requiring it for existing tank systems. They suggested a number of other factors to be considered in these individual decisions: the waste's toxicity, the site's location and hydrogeology, and the facility's past history of releases. Although this option was not chosen for today's proposed rule, it will be evaluated further between now and promulgation of the final rule.

About one-fourth of all comments favored requiring complete containment (the first option) for all hazardous waste tanks and did not suggest a case-by-case approach. One did propose, however, that ground-water monitoring be allowed as an alternative.

EPA has concluded that, for most tanks, both new and existing, complete secondary containment is the most cost-effective means of addressing almost any cause of release and eliminating the possibility that releases will go undetected and enter the environment. If properly designed, installed, and operated, it provides virtually fail-safe protection of human health and the environment. The Agency acknowledges, however, that there may be significant problems in retrofitting *some* existing tank systems (e.g., inground concrete tank systems), and that there may be no need to provide secondary containment at some locations because of such factors as the hydrogeology of the facility and the nature and quantity of the wastes stored or treated in the tank system. Therefore, today's proposed secondary-containment requirements for hazardous waste tanks adopt the complete-

containment approach presented in the January 12, 1981, Preamble, but with significant exceptions to address some important concerns identified by several of those who commented.

The proposed requirements are intended to offer flexibility to existing tank systems because the Agency believes that it may not be technically or economically feasible to retrofit some of these systems with full secondary containment, short of total replacement of the system. Thus, although the proposal requires new tank systems to have full secondary-containment systems, it also provides an alternative for existing tank systems: the ground-water monitoring alternative discussed in EPA's strategy (see Section IV.D.) that allows the use of a ground-water monitoring program in conjunction with partial secondary containment (for above-ground portions of tank systems), semi-annual leak tests (for underground tank systems), and thorough periodic assessments of aboveground and inground tank systems.

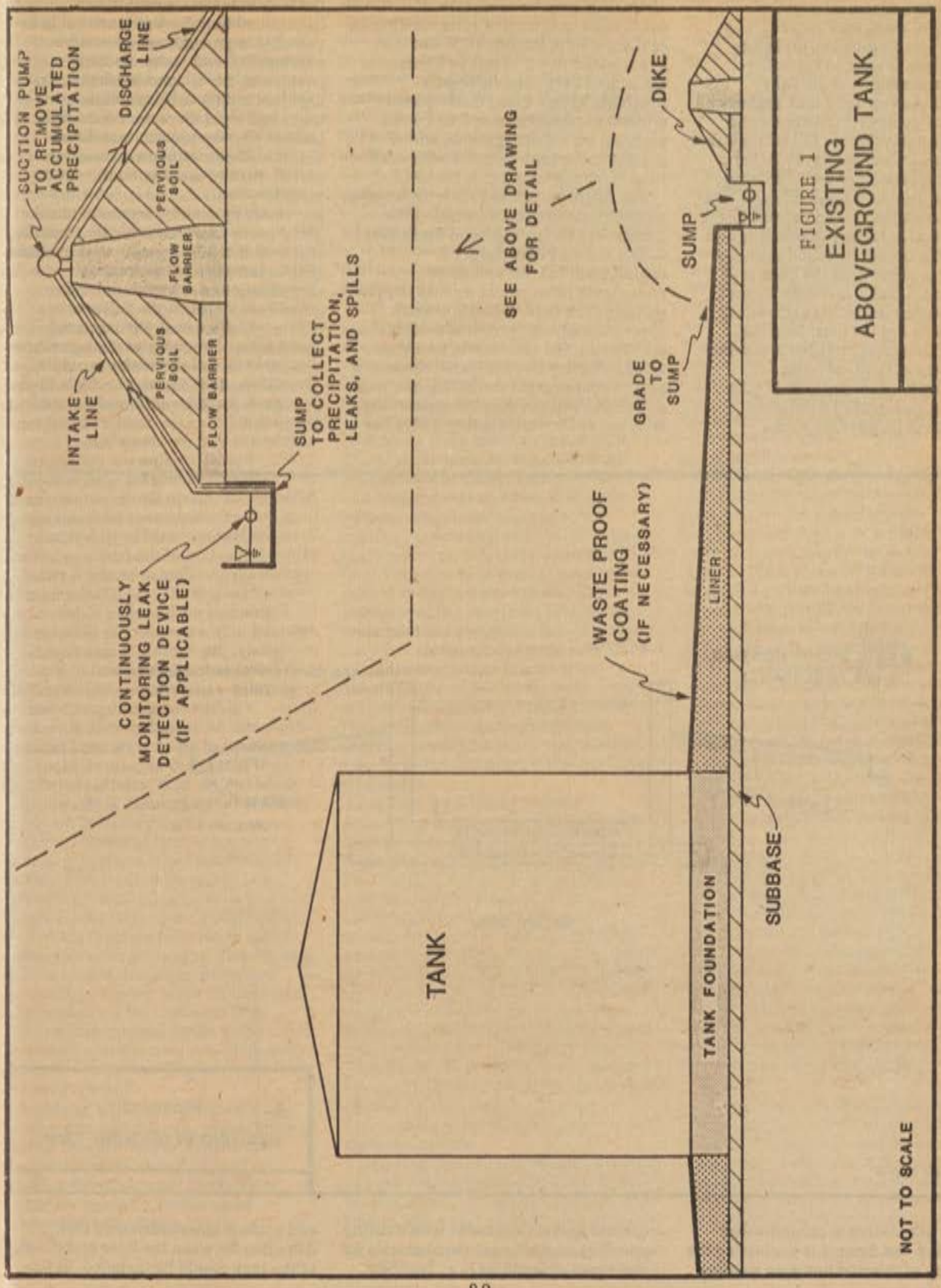
To allow for flexibility in implementing the containment requirements on a case-by-case basis, the proposal permits waivers of both the full secondary-containment requirements and the ground-water monitoring alternative if an owner or operator can demonstrate that any hazardous waste or hazardous constituent will be prevented from migrating into ground water or surface water "at any future time." EPA is considering and seeking public comment on the alternative of demonstrating that migration will not occur "during the active life of the unit and the post-closure care period." These waivers do not, however, alter the proposed design, installation, and operating requirements for tank systems (the primary containment system), which must always be met. In addition, the Agency solicits comment on the merits of using a risk-based approach to granting a waiver from the secondary containment requirement, as outlined in Section IV.C. of this preamble.

b. *Problems with Retrofitting Existing Above-, In-, and Underground Tank Systems.* Full secondary containment for tank systems is viewed as a barrier designed, installed, and operated so that any release of hazardous waste from the system will be promptly detected, collected, and removed, thereby preventing hazardous waste from reaching the soil, ground water, or surface water outside the barrier. Because most existing hazardous waste tank systems are not protected by full secondary containment, a key issue is the feasibility of retrofitting these existing systems. In order to evaluate this issue, it is useful to classify the existing hazardous waste tank universe into three broad categories: aboveground, inground, and underground. Figures 1–13 provide typical examples of each of these categories, including some of the types of partial or full secondary containment that may be provided for them.

At existing aboveground tanks that are cradled or otherwise elevated above the ground's surface, the Agency believes that it is technically and economically feasible to place a barrier such as concrete under the tank and to install curbing or diking around the storage area to contain the movement of released waste. In contrast, if a secondary-containment barrier must be placed under a tank system that is in contact with the ground's surface, it would, in many cases, be necessary to disassemble, lift, and unearth the tank system, which could result in destruction of the tank. To solve these problems, the Agency considered several technical control measures as an alternative to full secondary containment.

For existing aboveground tanks that are in direct contact with the ground's surface or sitting on a foundation and cannot practicably be provided with full secondary containment under the bottom of the tank, the Agency evaluated the use of partial containment consisting of a base and diking around the perimeter of the tank but not under its bottom. (See Figure 1.) EPA believes that such partial containment would prevent many of the most frequent type of releases (e.g., overtopping, malfunctioning equipment, operators' errors) from entering the environment. Although in certain limited situations (e.g., tanks on concrete pads) leakage from the bottom could be detected by visual inspection of the tank's exterior and the surrounding area, the Agency does not believe that most leaks from the bottoms of such tanks can be detected in this manner. As discussed previously, the Agency is concerned with releases from those portions of tank systems that corrode as a result of contact with the surrounding soil and that cannot be observed. Partial containment of an aboveground tank does not prevent or contain releases from the bottom of a tank that is in contact with the ground's surface.

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The Agency also assessed the feasibility of using such measures as ground-water monitoring, inventory controls, leak tests, and corrosion-protection measures at partially contained aboveground tank systems as a means of achieving environmental protection equivalent to full secondary containment. (See Section IV.B. for a detailed discussion of the additional protective measures available and their relative strengths and limitations.) EPA believes that inventory monitoring and leak testing cannot be relied upon for detecting leakage from the bottom of aboveground tanks. It concludes that ground-water monitoring and periodic assessments are the most feasible means of detecting invisible leaks from the bottoms of those existing aboveground tanks that can only be retrofitted with partial secondary containment. (A possible future alternative may be some type of continuous unsaturated zone monitoring, as discussed in Section IV.B. but EPA has rejected this alternative because of the lack of data establishing its reliability at this time.) Corrosion-protection measures required by this proposal would also provide added protection for tank bottoms where full secondary containment is not used.

The Agency realizes that retrofitting a containment barrier to surround the portion of existing inground tanks that do not have a full secondary-containment barrier around or underneath them would usually require replacing the tank, especially since approximately 70 percent of such tanks are constructed of concrete (see Figure 2). The Agency has evaluated the use of partial containment consisting of a base and diking around the perimeter of the tank but not containing that portion of the tank in the ground. EPA has determined that this approach could be valuable in preventing releases from overtopping, and malfunctioning equipment, but is concerned with the high probability that inground concrete tanks will crack over time and allow leakage and the present inability to detect releases within a reasonable period. As discussed in Section IV.B., inventory controls and leak testing are not viable options for inground tanks. The Agency has concluded that existing inground hazardous waste tank systems that do not have full secondary containment must implement the ground-water monitoring alternative previously discussed. For inground metal tanks, corrosion control measures must also be retrofitted; for example, cathodic protection can provide added protection for that portion of the shell in the ground.

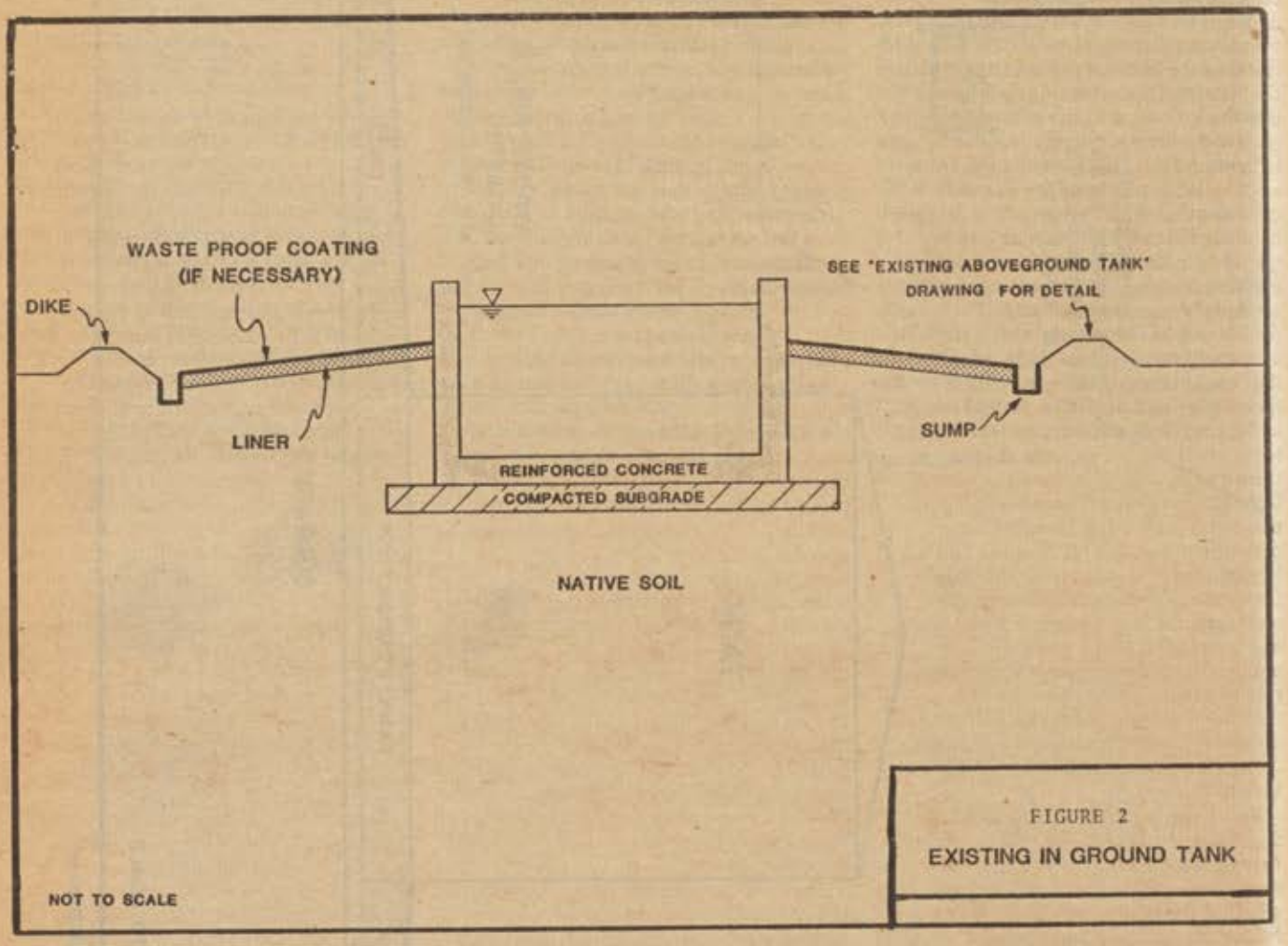


FIGURE 2
EXISTING IN GROUND TANK

As an alternative to ground-water monitoring, the Agency is evaluating the feasibility of internal liners on existing inground tanks. Consistent with existing secondary-containment requirements for other types of facilities (e.g., landfills and surface impoundments), leak detection between the liner and the shell of the tank would be included. In this

approach to secondary containment for existing inground tanks, the liner becomes the primary containment device while the original tank walls and bottom compose the secondary containment. EPA does not know if this approach is technically feasible and seeks comment on its equivalency to the more common types of secondary containment that are technically feasible and practical: an external liner surrounding the tank, a tank within a vault, or double-walled tanks.

For exisiting underground tanks without a barrier between the tank and the surrounding soils, the Agency does not believe it is practicable to provide full containment around the tank without digging it up and lifting it out to install the containment system. Neither does the Agency believe that partial containment addresses releases from underground tanks because of their location below the ground's surface. The primary concerns with existing underground tank systems are: the causal relationship between corrosion of metal tanks and the surrounding soils, the "invisibility" of resulting releases into the ground, and the present inability to detect releases quickly. As discussed in Section IV.B., tank-testing methods are available primarily for use with underground tank systems. The Agency believes that periodic testing can be valuable in detecting releases from existing underground tanks without secondary containment. EPA is concerned, however, that this approach alone will not detect significant releases that could develop over the period of time between tests. Also, as discussed in Section IV.B, the Agency is reluctant to rely on inventory monitoring to identify releases of hazardous waste from tank systems. The retrofitting of corrosion-protection measures (e.g., cathodic protection) is feasible and may be one useful method for mitigating or preventing releases from many metal underground tank systems. The Agency has concluded that a ground-water monitoring program plays an important role in assuring that releases from existing underground tanks without full secondary containment are adequately controlled to protect human health and the environment.

Problems with retrofitting existing ancillary equipment (e.g., pipes, pumps, valves, flanges) that is without full secondary containment depend on whether the equipment is: above or below the ground's surface, and associated with above-, in-, or underground tanks. The Agency believes that the partial containment of above- and inground tanks may often be utilized to provide the necessary secondary containment for nearby ancillary equipment. The Agency has concluded that it is necessary to provide full secondary containment for aboveground equipment (e.g., at valves, flanges, and pumps) since the risk of release from breakage of malfunction is significant. All ancillary equipment that is in the ground must be either provided with full secondary containment *or* leak tested and provided with ground-water monitoring.

The Agency believes there are leak-testing methods that can be used effectively on a periodic basis to assure the integrity of underground piping (see Section IV.B.). EPA is concerned that metal equipment will corrode in the ground and that releases from underground equipment are invisible. The Agency believes, however, that retrofitting corrosion protection for underground metal piping is feasible. Because significant leaks can be released undetected from underground equipment in a relatively short period of time, the Agency has concluded that a ground-water monitoring and leak testing program must be provided for underground equipment that does not have full secondary containment. If the ancillary equipment is part of an existing inground or underground tank without full secondary containment, then the ground-water monitoring program required for the tank should also be designed to cover the ancillary equipment.

c. *General Requirements for Secondary-Containment Systems.* As discussed previously, EPA is today proposing in § 264.193 to incorporate into the RCRA permitting standards specific design, installation, and operating requirements that are intended to implement full secondary containment for hazardous waste tank systems. Proposed § 264.193(a) provides the general performance standards that must be achieved by such systems. Proposed § 264.193(b) provides general requirements that the Agency believes must be met to assure that any technical approach to full secondary containment chosen by an owner or operator successfully protects human health and the environment.

The first two general design standards (§§ 264.193(b) (1) and (2)) relate to the wastes stored and physical forces. The first requires that containment systems be constructed of or lined with materials that are compatible with the type of waste(s) to be handled in the tank system (e.g., a concrete vault may need to be lined to prevent attack from sulfides or decomposition by acidic wastes). The second requires that the secondary-containment system be designed and installed so that climatic conditions resulting from stresses from installation and pressure gradients that could result in settlement, compression, or uplift are prevented. Special precautions would be necessary, for example, when a secondary-containment system is located in a fluctuating water table (owing to seasonal or tidal variations). In this case, the design engineer must compensate for the external hydrological forces exerted on the system. In addition, the base or foundation on which the containment system rests must be of sound construction.

The design standard proposed in § 264.193(b)(3) requires that secondary containment for a tank system incorporate a device or method capable of detecting promptly the presence of released hazardous liquid in the seondary-containment system ("leak detection"). It is EPA's intent that this leak detection capability be able to detect the presence of liquids within 24 hours of a release. Once a release is detected, the owner or operator must take measures to respond to the release. These required measures are provided in § 264.196 and are described in V.E.7. of this Preamble. To ensure that the integrity of the secondary-containment system is maintained, such leak detection should also be capable of detecting the entrance of liquids that are external to the tank and within the containment area. This design standard would be achieved if the flow of ground water into the system could be detected, thus indicating a failure of the secondary-containment system. One such method of leak detection is a containment-detection system designed with a sump that has an access point enabling periodic inspection for the presence of liquids. (See Figures 1 and 2 for an example of this technical approach.)

To meet the proposed § 264.193(b)(4) standard, the base of the secondary-containment system must be sloped or otherwise designed and operated so that liquids entering that system will be able to drain to a location from which removal is facilitated. In many cases,

this could simply be a sump from which the liquid is pumped as soon as it is detected in the containment system. (See Figures 3 and 4.) If this liquid is thought or known to have resulted from a leak in the tank system, action should be taken to minimize the quantity of the release by cutting off the flow of waste to the tank and possibly even emptying the tank's contents into another storage device (tank or container). Liquids that do get into the secondary-containment system should be removed within 24 hours in order to minimize the risk of the waste's being released into the environment and to avoid endangering human health (from fumes, explosions, etc.).

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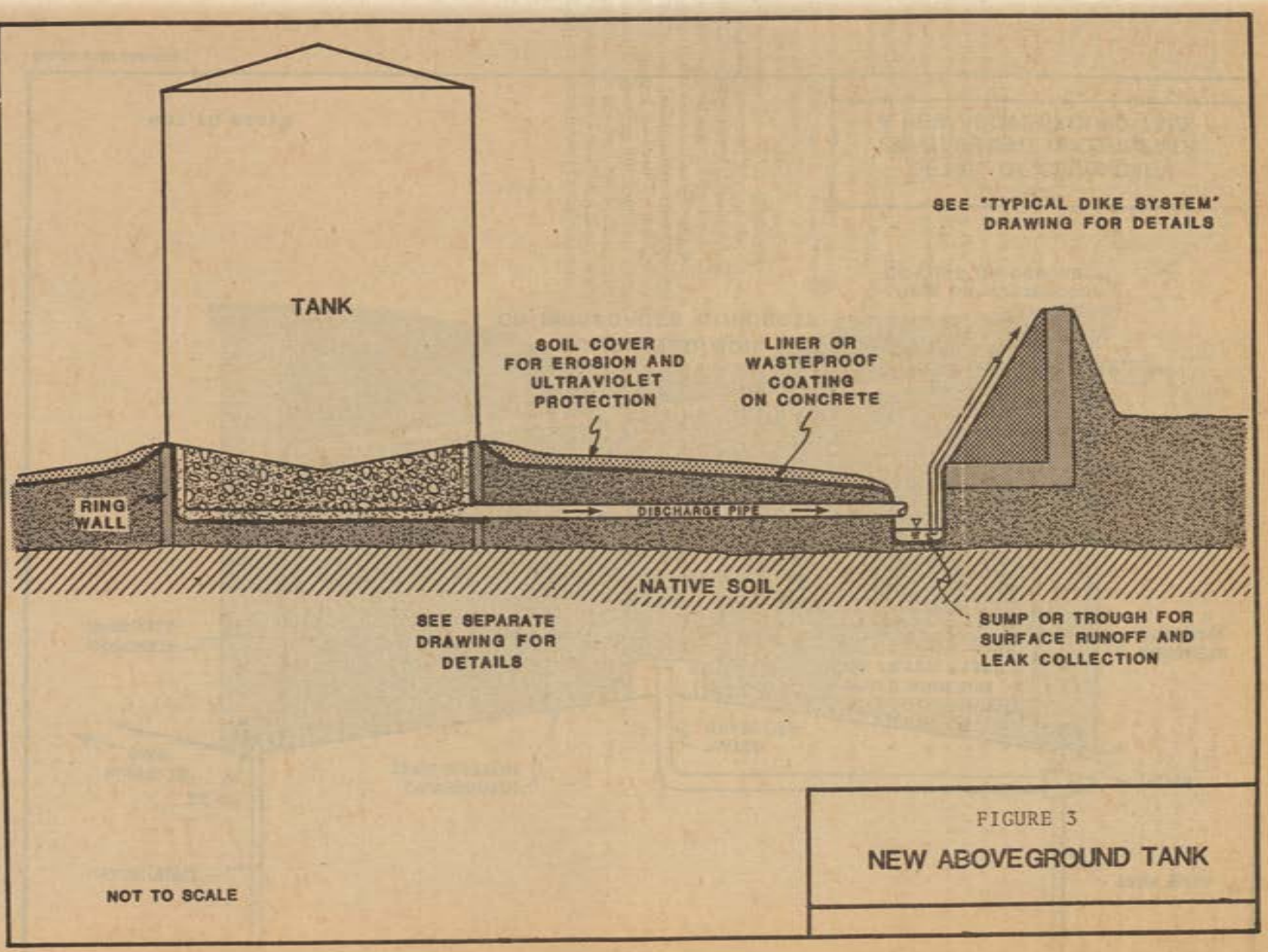


FIGURE 3

NEW ABOVEGROUND TANK

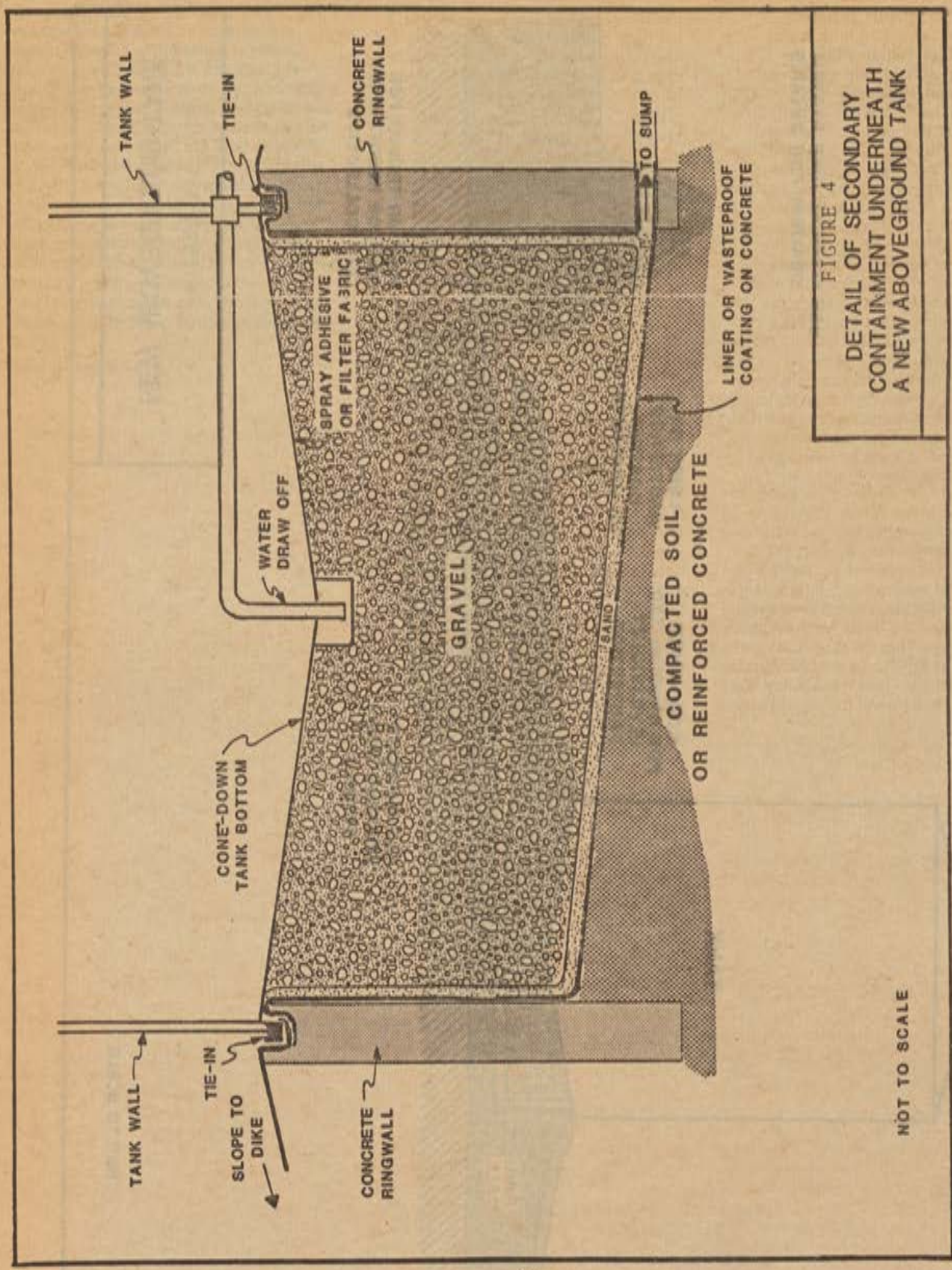


FIGURE 4
DETAIL OF SECONDARY CONTAINMENT UNDERNEATH A NEW ABOVEGROUND TANK

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In order to provide complete containment should a tank rupture, § 264.193(b)(5) requires that the secondary-containment system be designed and/or operated to hold 110 percent of the design capacity of the largest tank within the containment area. In addition, under § 264.193(b)(6), the containment system must have sufficient capacity, above and beyond 110 percent of the largest tank's capacity, to collect precipitation runon and infiltration that may enter the containment system. To compute the quantities of precipitation that may enter the containment system, the Agency believes that the 25-year, 24-hour rain storm should be used. If the design capacity required in § 264.193(b)(5) and the possible runon, infiltration, and precipitation, calculated in § 264.193(b)(6) together exceed the containment system's design capacity, then the system must be redesigned to accommodate this volume.

d. *Specific Secondary-Containment Requirements for Tanks.* Proposed § 264.193(b) provides several standards specific to each of the three types of secondary containment available for tanks: liners external to the tank system, vaults, and double walls. These special standards and the basis for the Agency's concerns regarding the three options for containment are discussed below. It is important to note that the Agency does not at this time intend to endorse any particular type of containment over another. If properly designed, installed, and operated, each of the methods is expected to provide protection of human health and the environment.

External liners may be used to contain aboveground, inground, and underground tanks. (See Figures 5 and 6 for examples of this technical approach.) Liners may be constructed of a variety of materials, including bentonite, asphalt, concrete, or synthetic membranes. The choice of materials depends on such factors as the site's location, the wastes handled, and climate. Diking or curbing around aboveground portions of tanks might be constructed of asphalt or concrete, depending on site-specific factors. (See Figure 7.) Owners and operators who use an external liner to provide secondary containment must ensure that the liner provides a complete envelope that will prevent both lateral and vertical migration of waste out of the containment system and will be free of craks or gaps. Care must also be taken to ensure that a leak-proof connection between the tank and piping containment systems is provided (see Figure 8). Compatibility between the liner and the wastes to be handled must be assured so that the integrity of the liner is maintained.

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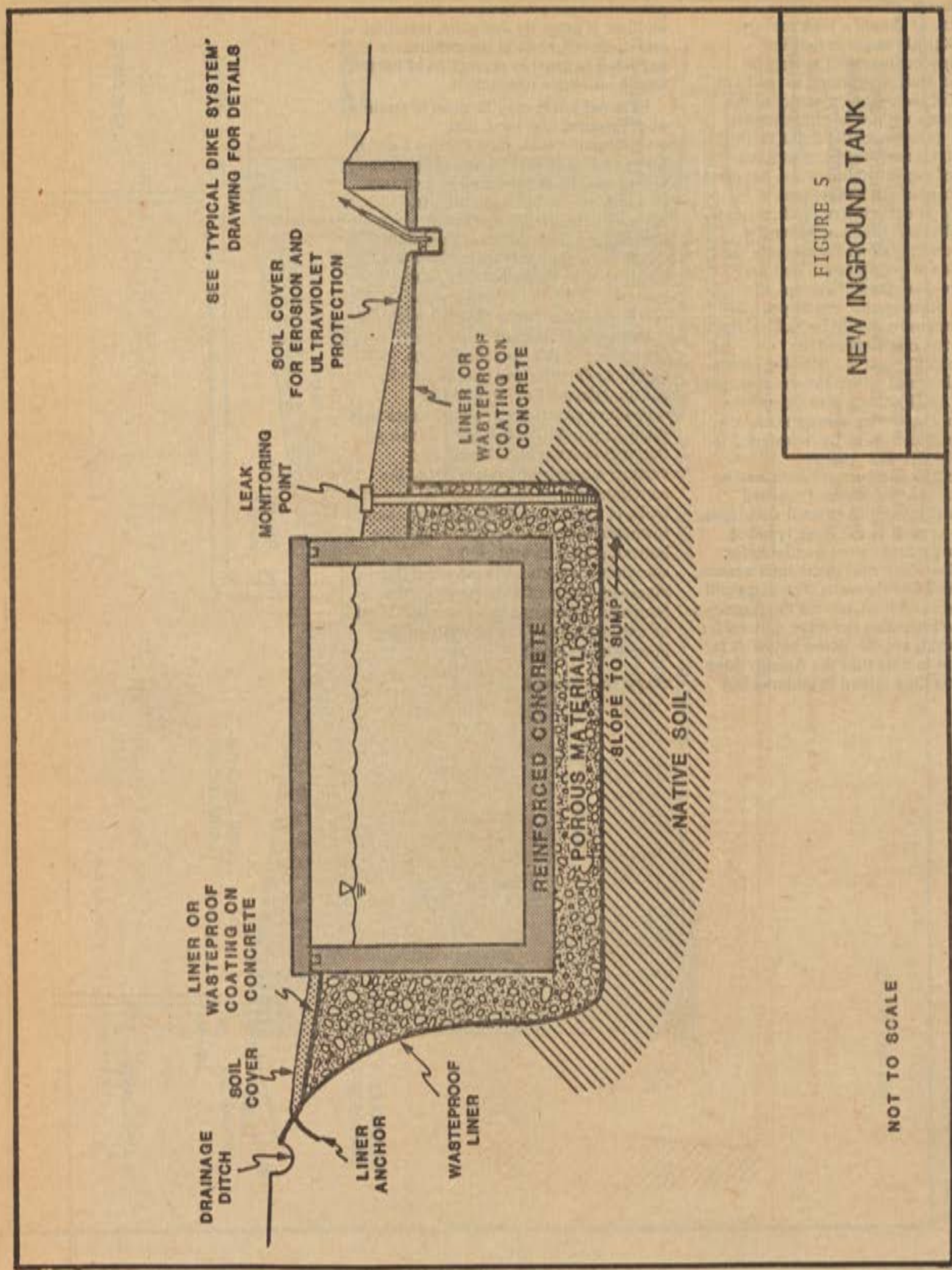
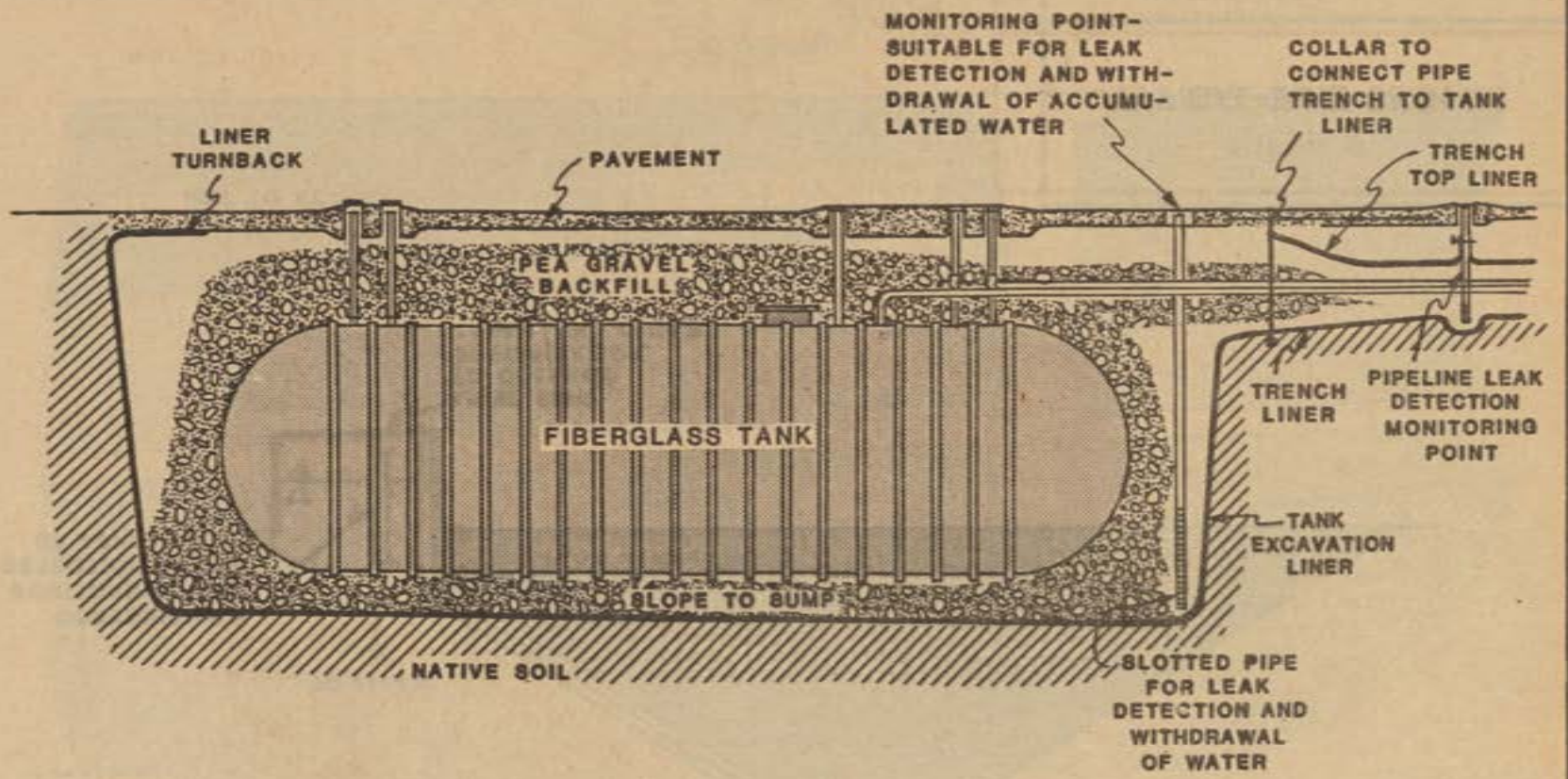


FIGURE 5
NEW INGROUND TANK



NOTES:

1. NOT TO SCALE.
2. TANK EXCAVATION LINER AND TRENCH LINER CONSIST OF CHEMICALLY COMPATIBLE SYNTHETIC MEMBRANES.

FIGURE 6

SYNTHETIC MEMBRANE LINER

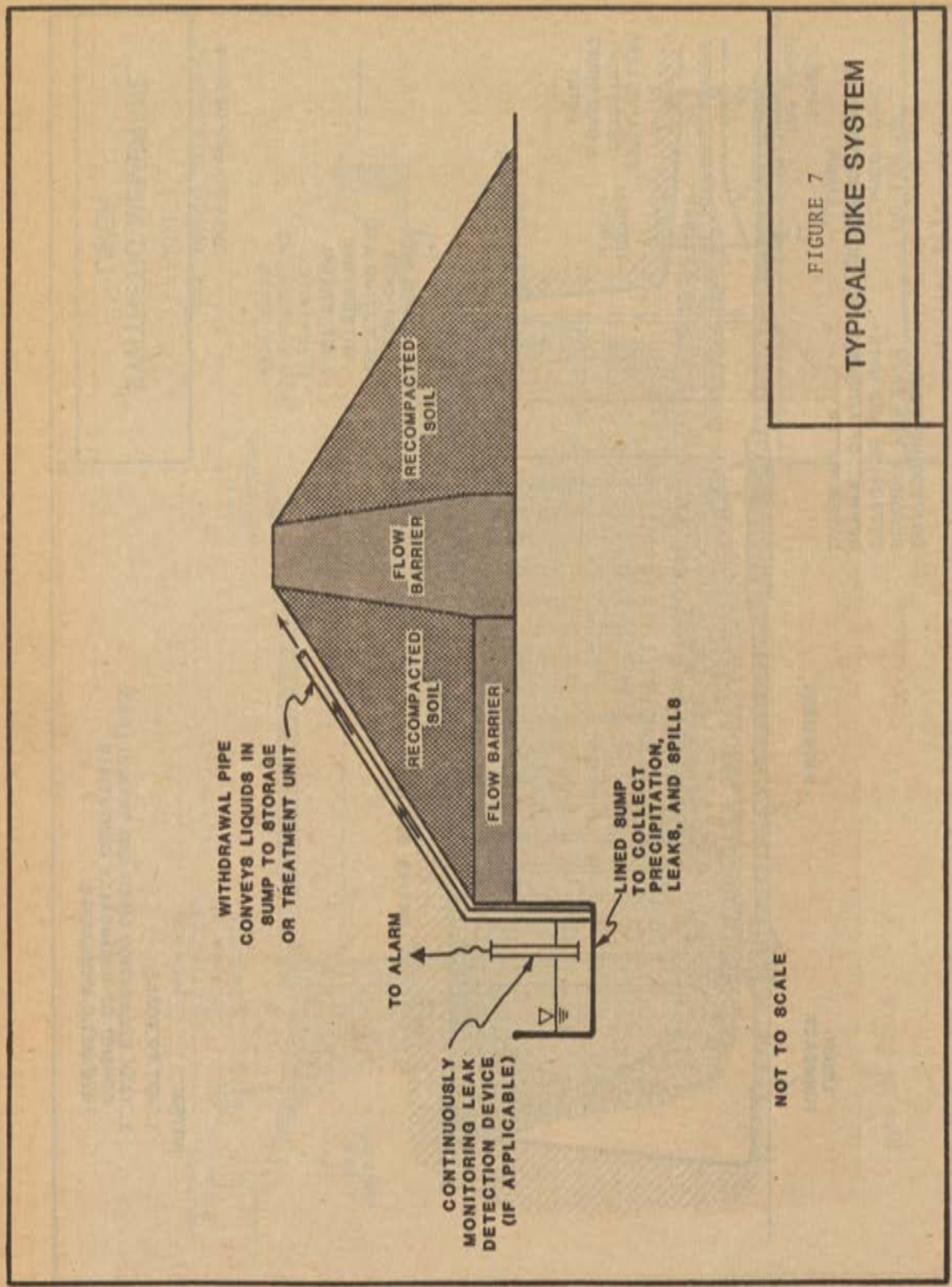


FIGURE 7
TYPICAL DIKE SYSTEM

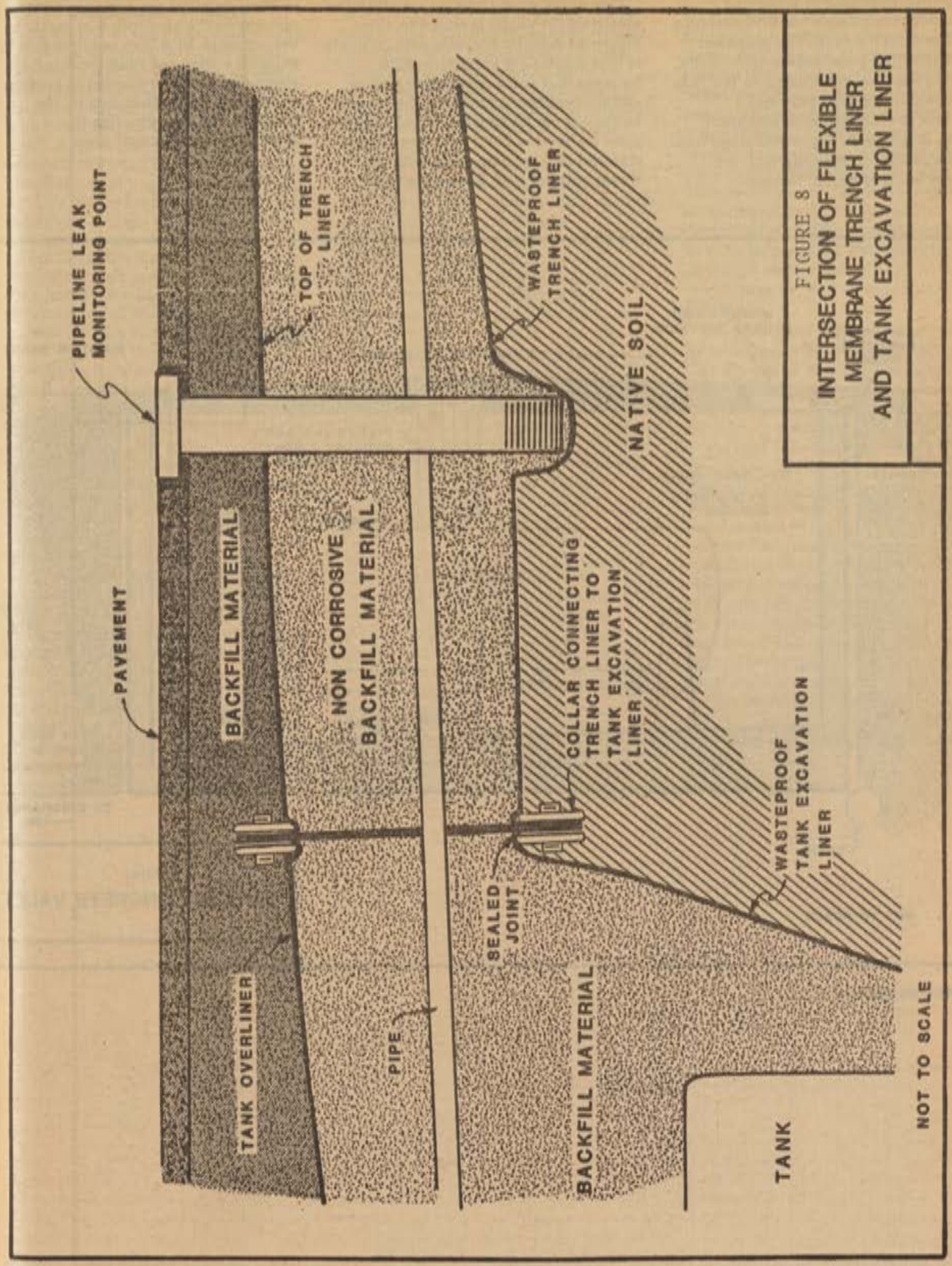


FIGURE 8
INTERSECTION OF FLEXIBLE MEMBRANE TRENCH LINER AND TANK EXCAVATION LINER

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Another approach to achieving secondary containment is to construct a vault around the tank. The proposed § 264.193(d)(2) standards require that a vault system be constructed so that it is liquid-tight, that is, it provides a continuous structure with leakproof joints. In addition, any water stops must be chemically compatible with the wastes being stored or treated.

One of the most common construction materials for vaults is concrete. (See Figure 9.) A major concern with concrete is that cracking is inevitable. EPA believes that since concrete is porous and susceptible to cracking, the interior surface of vaults constructed of concrete must be lined with an epoxy or similar material that is compatible with the waste being stored. Such an interior coating provides the added advantage of preventing the absorption of waste by the concrete. EPA also requires that the external surface of vault containment structures be waterproofed to prevent water from being absorbed by the concrete and thus entering the secondary-containment area.

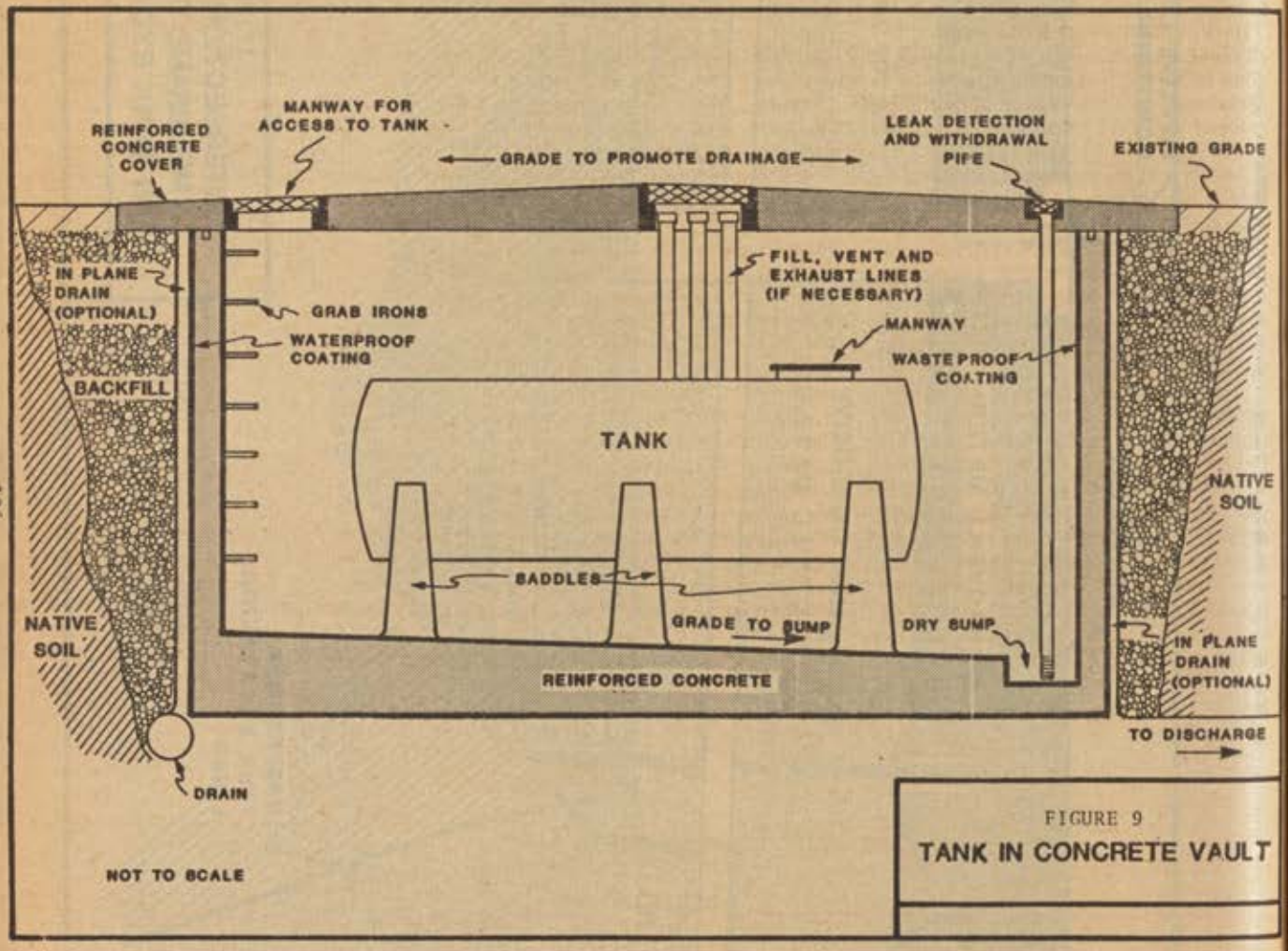


FIGURE 9
TANK IN CONCRETE VAULT

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One of the main problems EPA must address with regard to vaults is assessing risk of fire or explosion, which may cause a conflict with fire codes. Proposed § 264.193(d)(2)(iii) requires tanks storing ignitable waste that are placed in secondary-containment vaults to be backfilled. The reason for this requirement is that fire safety officials believe that an unfilled vault poses a potential risk of explosion if a leak of ignitable waste from the tank vaporizes and mixes with the air in the vault to form an explosive mixture.

Backfilling the tank in the vault eliminates this concern. This practice does, however, make it impossible to perform a visual inspection of the tank's exterior and the vault's interior surfaces; it also increases the cost of taking remedial actions on the tank or vault should a release occur in the system. EPA will continue to work closely with the National Fire Protection Association (NFPA) on this issue so that vaults will become acceptable from the viewpoints of environmental protection and fire safety. The Agency invites comment on this issue.

Double-walled tanks offer yet another approach to providing secondary containment for tanks. (See Figure 10.) Double walls offer such advantages as easy installation and ease of cleanup if primary containment fails. Industries in several European countries have used double-walled tanks for as many as 15 years or more. Although such tanks are not currently manufactured extensively in the United States, a growing number of U.S. tank manufacturers consider them standard items. The Steel Tank Institute (STI) has recently developed guidelines for the design, construction, and installation of steel double-walled tanks. Since the fiberglass tank industry does not have a comparable national association, a similar industry-wide guideline has not been developed for fiberglass double-walled tanks although they are being marketed by several companies.

The standards in proposed § 264.193(d)(3) require that double-walled secondary containment be a self-contained unit (i.e., complete containment of the tank) with built-in leak-detection monitoring. Liquid-, vacuum-, or pressure-type detection systems can be used. Corrosion protection must be provided for metal double-walled tanks in contact with the ground's surface.

e. *Specific Secondary-Containment Requirements for Ancillary Equipment.* As discussed previously in this Preamble, 50 percent or more of releases from tank systems can be attributed to failure of a component of the ancillary equipment. Thus, the Agency has concluded that releases from this equipment must be adequately controlled. After considering the applicability of the protective measures discussed in Section IV.B., EPA concluded that releases from ancillary equipment are inevitable and only secondary containment can completey prevent such releases. For this reason, the proposed standards in § 264.193(e) require secondary containment for such ancillary equipment as pipes, pumps, and valves. The general secondary-containment standards in § 264.193(b) apply to ancillary equipment as well as to tanks.

Containment of releases from some ancillary equipment may already be provided by virtue of its location within the secondary-containment system of storage or treatment tanks. The Agency believes that secondary containment for pumps and valves is most cost-effective if it is integrated in the tank's secondary-containment system. The Agency recognizes that this will not always be the case, and so a separate containment system specifically designed for ancillary equipment may have to be provided. For equipment such as pumps and valves, a sump or similar device may be used to collect leaks (see Figure 11).

Releases from pipes can be contained by trenches or double-walled piping. (See Figures 12 and 13.) The Agency believes that acceptable trenches can be constructed of concrete or lined with a synthetic membrane. Either open-topped or covered trenches are acceptable, depending on whether the piping is above- or under-ground, but uncovered trenches would necessitate the management of incidental precipitation, as would any secondary containment system (see § 264.193(b)), if located outdoors. Another potentail problem with trenches is fire safety: a release that becomes "pooled" in the trench may be subject to ignition. This issue is similar to the fire safety concerns associated with tank vaults; thus, EPA is discussing both of these topics with NFPA. Comment on the relationship of fire safety to secondary containment for piping is invited.

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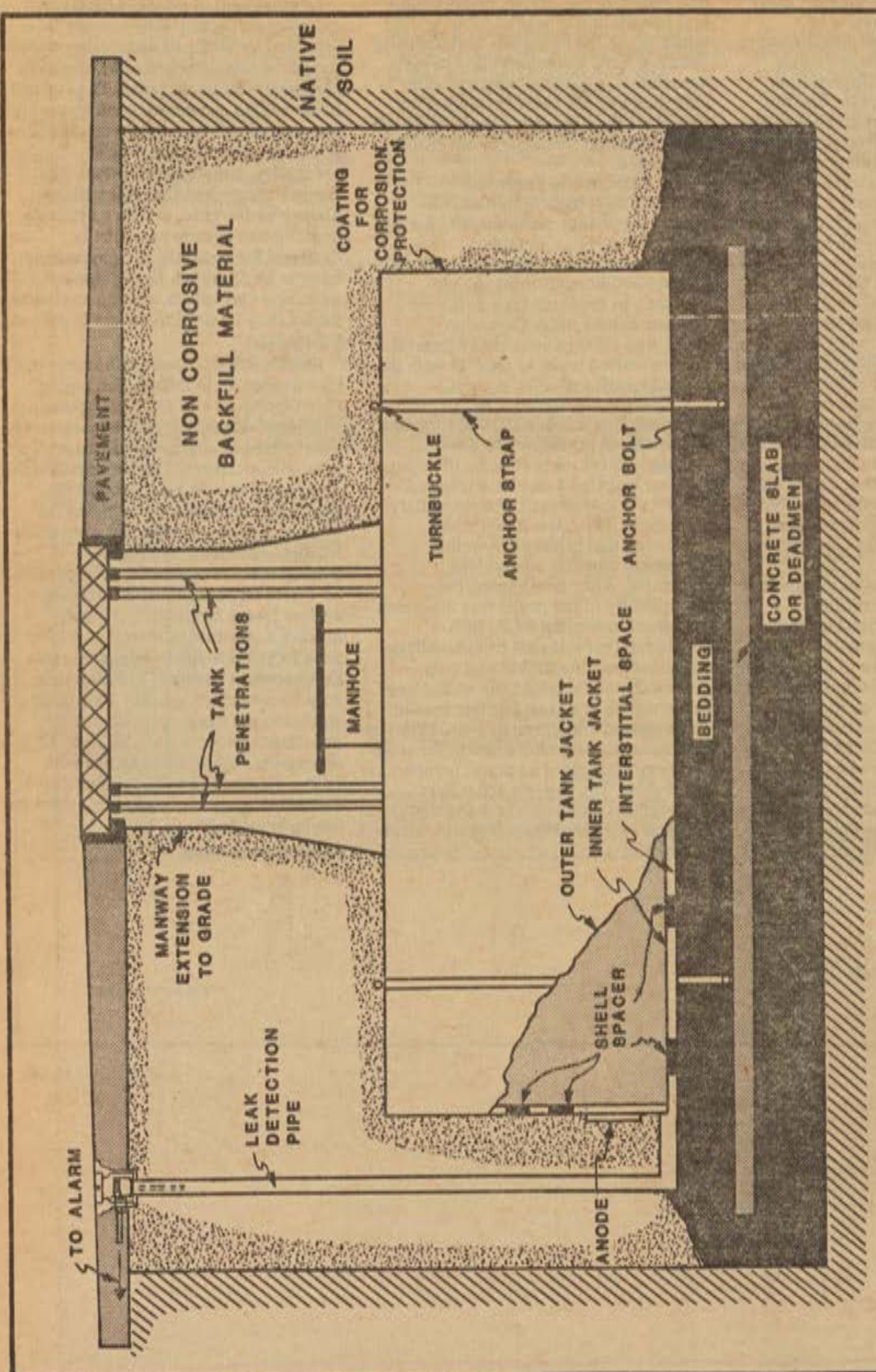
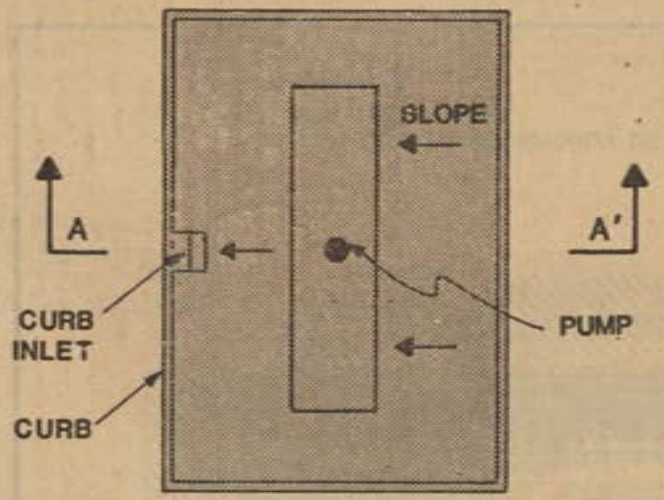


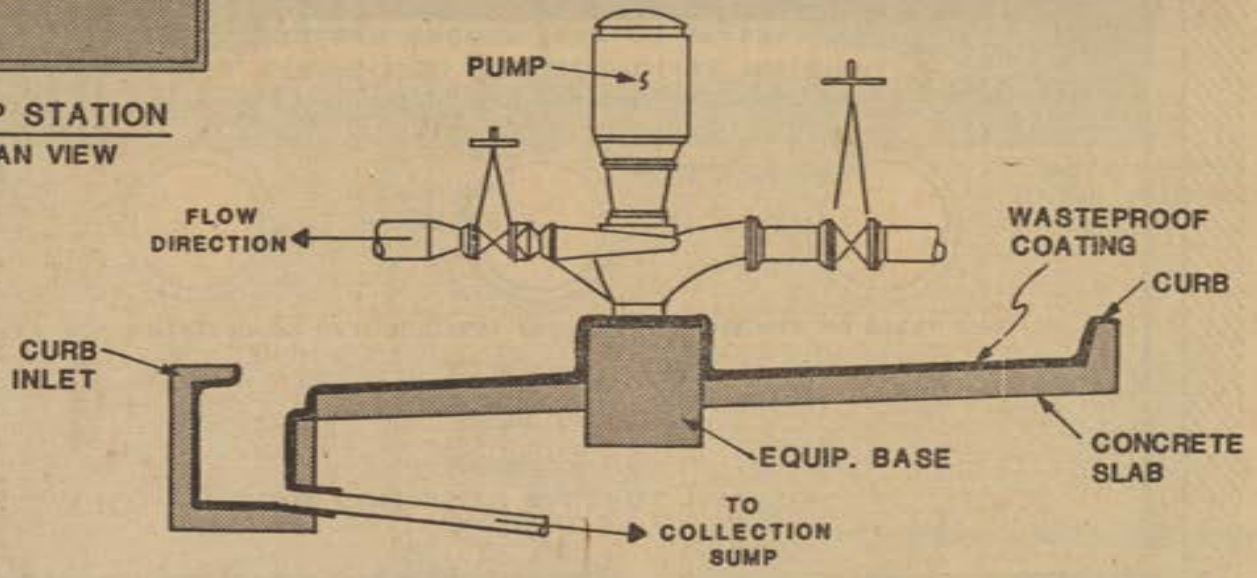
FIGURE 10
DOUBLE WALLED STEEL TANK

NOTES:
1. NOT TO SCALE.
2. TURNBUCKLES, ANCHOR STRAPS, ANCHOR BOLTS, AND CONCRETE SLAB ARE NEEDED IN WATER CONDITIONS.



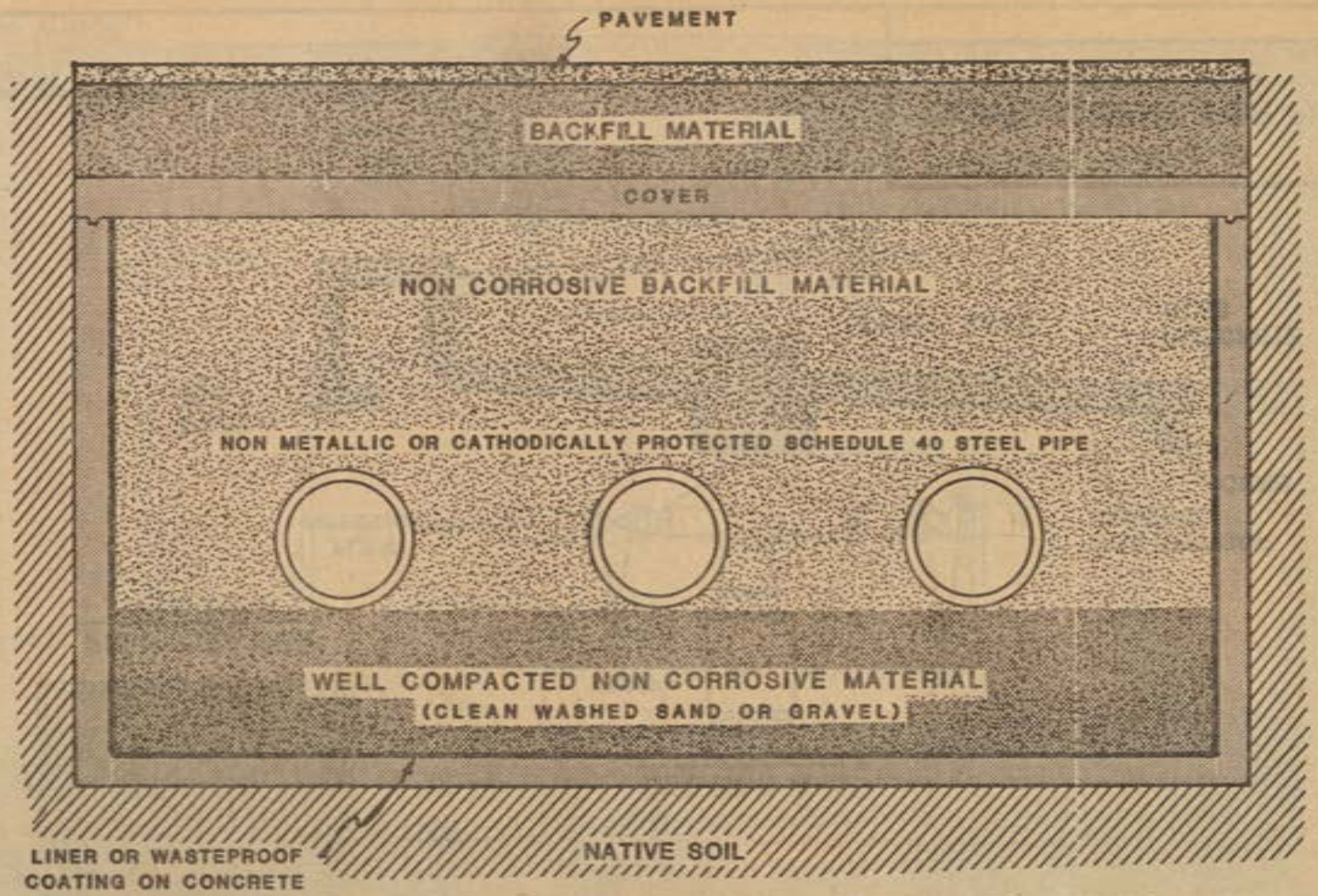
PUMP STATION
PLAN VIEW

SECTION A-A'



NOT TO SCALE

FIGURE 11
CONTAINMENT FOR PUMPS AND VALVES



NOTES:

1. LEAK DETECTION SHOULD BE INCORPORATED INTO THE DESIGN.
2. NOT TO SCALE.

FIGURE 12

UNDERGROUND LINED TRENCH FOR PIPING

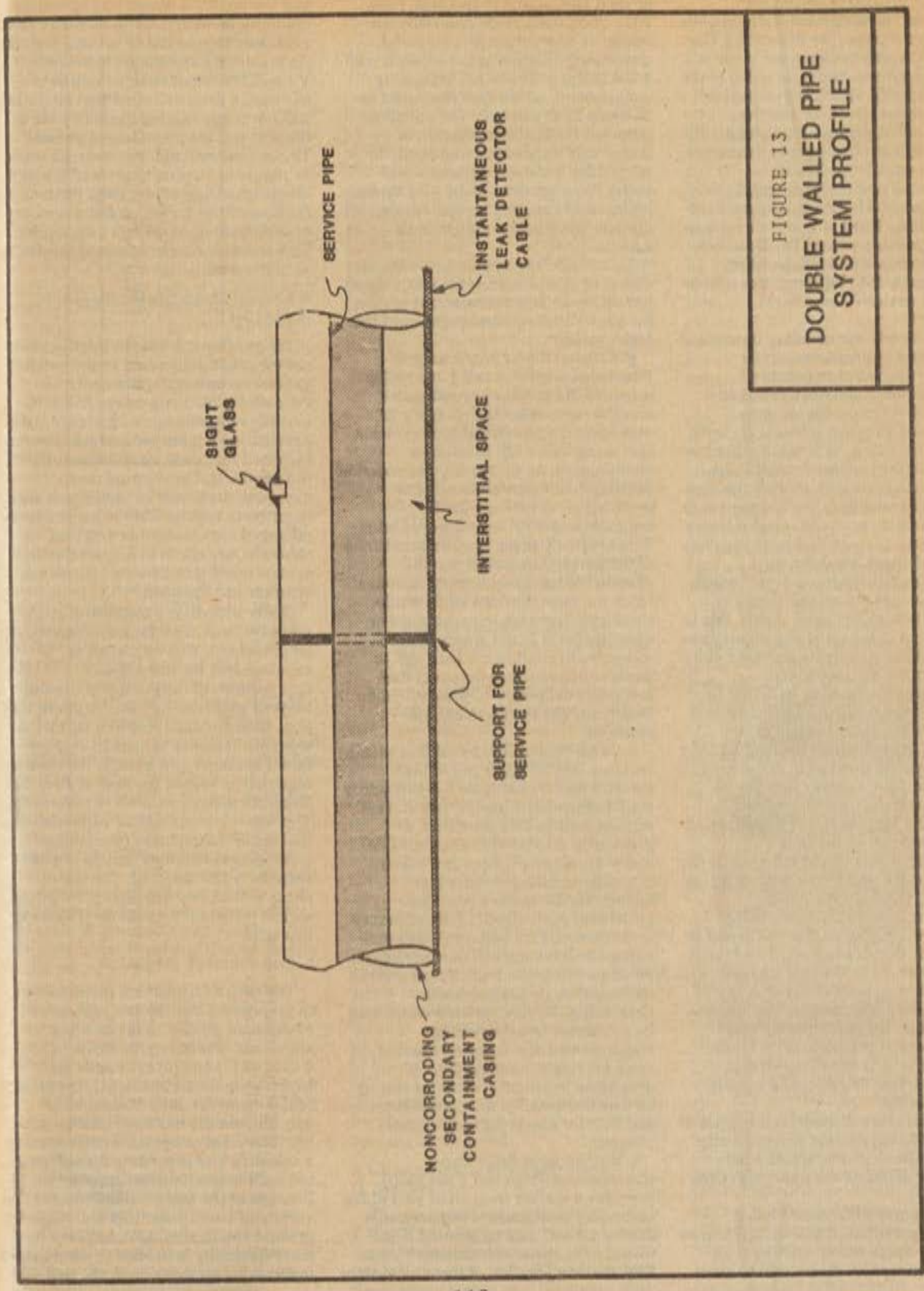


FIGURE 13
DOUBLE WALLED PIPE SYSTEM PROFILE

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Another method of secondary containment is double-walled piping—a pipe within a pipe. (See Figure 13.) The interstitial space between the walls is part of the system and is included in the leak monitoring, which is identical to that discussed above for trenches. Double-walled piping, although initially expensive, has a number of advantages. First, it is equally applicable aboveground and underground. Second, there is no need for the management of precipitation. Third, if there is a release from the primary piping, the cleanup is relatively simple and inexpensive.

Proposed § 264.193(e) requires a leak-detection device for ancillary equipment.

In combined tank-ancillary equipment containment systems, owners or operators may want to consider designing leak-detection devices or methods that would, for example, differentiate between releases from the tank vs. the piping. This is not, however, required in the proposed regulations. EPA also suggests that, to limit the area over which secondary containment may be necessary to protect against releases from failures of pump-fed piping (valves bursting, flanges breaking, etc.), protection against spray-out (for which several devices are commercially available) should be used. Again, this is not required in the proposed regulations.

Leak detection may be provided either by integrating the secondary containment for the tank with that for the piping and using one leak detection system for the entire system or by installing sensors along the length of the separately contained pipe. For a number of reasons, EPA believes sensors (or similar methods) may be prefered, particularly for covered or underground piping. Reliance on the tank's monitoring device would not necessarily identify which part of the tank or piping is leaking. On the other hand, monitoring devices along the entire length of the piping enable the owner or operator to detect even relatively small leaks anywhere in the piping system and also provide a check of the integrity of the secondary containment (i.e., ingress of water into the containment area). Furthermore, it is beneficial to know where the leak is occurring so that remedial action can be taken quickly and efficiently.

EPA requests comment on the types of leak-monitoring devices that currently exist and the degree to which such devices or methods are presently being used.

f. *Alternative of Ground-Water Monitoring.* Proposed § 264.193(f) allows owners or operators of existing tank systems, except for those used to store or treat Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027, the option of providing a ground-water monitoring program in accordance with § 264.193(g) in lieu of full secondary containment, which was discussed in Sections IV.D and V.C. The option is intended for facilities where it is technically impractical and costly to retrofit full secondary containment under those portions of existing tanks, piping, and ancillary equipment that are already on or below the ground's surface.

To exercise the option, however, an owner or operator must also provide a partial secondary-containment system for all the aboveground portions of the tank system.

g. *Ground-Water Monitoring Requirements.* Proposed § 264.193(g) provides the specific ground-water monitoring standards that apply to owners and operators of tank systems that do not have full secondary containment. As previously discussed in Section V.C., as an alternative to applying all of the Subpart F requirements, EPA incorporated into Subpart J only those specific provisions of Subpart F that would provide detection monitoring for tank systems. Once the detection of a statistically significant increase in parameters or constituents is found, appropriate measures to confirm the leak and to implement corrective action at the facility as necessary to protect human health and the environment are required.

h. *Leak-Testing.* Proposed § 264.193(h) requires that all undergound tank systems that do not have full secondary containment to be leak tested at least semi-annually. This provision, as previously discussed in Sections IV.D. and V.C., plays an important role in ensuring that the ground-water monitoring alternative provides protection equivalent to full secondary containment. EPA believes that semi-annual leak testing will in many cases enable a release to be detected prior to its detection via ground-water monitoring. As such, ground water may be prevented from becoming contaminated and corrective action costs may be minimized. EPA is specifying the same criteria for testing as was discussed in Sections V.E.2.d. and V.F. for assessing tank system integrity.

i. *Waiver from Secondary Containment.* Proposed § 264.193(i) provides a waiver from all or part of the secondary-containment requirements. Such a waiver may be granted if the owner or operator can demonstrate to EPA that the location of the tank system and the facility's design and operating practices prevent hazardous waste from ever reaching ground or surface waters. As previously mentioned in Section V.4.a., EPA considered the option of allowing a demonstration that migration will not occur "during the active life of the unit and the post-closure period." This waiver will not, however, be made available to storers/treaters of the EPA Hazardous Waste Nos. F020, F021, F023, F026, and F027 for which full secondary containment must always be provided. EPA requests comment on the feasibility of this waiver.

5. General Operating Requirements (§ 264.194)

The proposed § 264.194 requirements are essentially the same as the existing general operating requirements. Proposed § 264.194(a) revises the existing requirements of § 264.192(a) by substituting a more general performance standard that must be achieved under the permit. Under the proposed standard, the owner or operator is still required to ensure that the wastes being managed are compatible and that measures are taken to protect the tank system against accelerated corrosion, erosion, and abrasion.

Under proposed § 264.194(b), spills and overflows from tank systems must be prevented. This requirement encompasses the need to use appropriate controls and practices to prevent spills during transfer operations (e.g., filling or emptying of a tank). For example, if a hose is used to empty a tank's contents into a truck, the hose is regarded as part of the tank system and therefore subject to these requirements. The Agency is concerned with releases that occur during these operations, especially at facilities that do not have secondary containment. The use of check valves, dry disconnect couplings, and so forth will prevent most spills of this type.

6. Inspections (§ 264.195)

The revised inspection requirements in proposed § 264.195 are, with a few exceptions, similar to the existing standards. Those requirements in § 264.195 (b) and (c) are unchanged. Under proposed § 264.195(a), the present requirement for daily inspection of overfill controls has been eliminated, but the owner or operator must develop a schedule and procedure for carrying out such inspections, as appropriate. Because of the technical differences and variety of overfill controls that might be present at a facility, EPA believes that more flexibility is needed in establishing inspections for these controls; this

approach will allow the owner or operator more flexibility in establishing the frequency and protocol of inspections, taking into account site-specific factors.

In § 264.195(d), the Agency proposes to add requirements to inspect cathodic-protection systems, if present. As discussed previously, the Agency is proposing several new requirements to assure corrosion protection of metal tank systems that are in contact with the ground. Although cathodic protection is effective in mitigating corrosion of a metal tank system, once it is installed, it must be adequately maintained. If corrosion-protection measures are not maintained, corrosion rates for systems that have such protection can exceed the rates for completely unprotected systems. The proposal requires that impressed current systems must be inspected monthly for such problems as anode deterioration, rectifier malfunction, power interruption, and rectifier output and that the anode output of a sacrificial anode system must be checked at least semiannually. It also requires that the tank system to soil potential measurement be conducted at least annually to ensure a minimum voltage of –0.85 volts. This measurement is typically conducted by taking voltage measurements between the tank or piping surface and a saturated copper/copper sulfate reference electrode located on the soil as close as possible to the storage system. Reference should be made to the NACE Standard Recommended Practice, RP–02–85—"Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems" for details on performing this measurement. EPA recommends that manufacturers' recommendations for inspection of cathodic-protection equipment be followed to ensure that the cathodic-protection system is properly maintained and that corrosion is not taking place.

Proposed § 264.195(e) retains the existing requirements for periodic inspections, but, in keeping with other changes being proposed today, a schedule and procedure must be developed for assessing the condition of the entire tank system. Although EPA is today proposing requirements for secondary containment, this does not mean that the tank system's primary containment should be neglected. The owner or operator must, of course, properly maintain the integrity of the tank system to preclude catastrophic failures that could endanger human health or the environment. Thus, the proposed standards for periodic inspections of § 264.195(e) require scheduled investigations of the complete tank system to check for leaks, cracks, corrosion, and erosion that may lead to releases. Such inspections should include the bottoms and roofs of tanks, piping joints, and so on. The frequency of this assessment can be determined individually for each tank system. It is appropriate in many cases to coordinate this comprehensive inspection with the schedule by which the tank system is normally taken out of service for routine preventive maintenance. Of course, this requirement would apply only to tanks that can be inspected and would not apply to underground tanks that cannot be entered for inspection. Underground tanks that do not have full secondary containment, however, must be tested semi-annually under § 264.193(h).

Inspection for shell thickness has been deleted since the Agency is also proposing to delete the existing requirement for minimum shell thickness. The practices described in the API publication, *Guide for Inspection of Refinery Equipment* (4th ed., 1981), Chapter XIII, "Atmospheric and Low Pressure Storage Tanks," may be used as guidelines for assessing the overall condition of the tank system.

7. Response to and Disposition of Leaking or Unfit-for-Use Tank Systems (§ 264.196)

Proposed § 264.196 establishes procedures to be used in responding to spills and leaks, including the timing and procedures for the removal of leaked or spilled waste. This requirement also covers removal of waste from secondary-containment systems, where applicable, and measures that will be taken to minimize any release (e.g., emptying a tank to below the level of the leak) when discovered. These requirements must be part of the contingency plan required under Subpart D of Part 264 and must be made available upon request. At a minimum, these procedures must include measures for containment of releases, measures for removal of releases from the tank and containment systems, procedures for conducting assessments of the risks due to a release and the remedial actions necessary to mitigate the severity of a release, and procedures for placing repaired or replacement tank systems into service.

8. Closure and Post-closure Care (§ 264.197).

The proposed requirements in § 264.197(a) oblige each facility owner or operator to close the entire tank system, not just the tank, as is required under the existing standard. This means that both the tank and ancillary equipment must be removed or decontaminated at closure. If a secondary-containment system is used, it, too, must be properly closed by assuring that all hazardous wastes are decontaminated or removed. Finally, the owner or operator is required to decontaminate or remove any contaminated soil. Such soil must be managed as hazardous waste unless it is a solid waste that does not exhibit any of the characteristics of hazardous waste or it has been excluded under §§ 260.20 and 260.22. The proposed standard is intended to prevent releases from closed tank systems and to eliminate contamination from the surrounding soil so that human health or the environment is not endangered subsequent to closure of the system.

Proposed § 264.197(b) states that if an owner or operator is unable to remove or decontaminate all contaminated soils at closure, then the post-closure landfill requirements of final capping and ground-water monitoring set forth in § 264.310 are applicable at the site. This post-closure care requirement is being proposed because there is the potential that a release from any tank system without full secondary containment could be left unmanaged at closure.

The Agency believes that an impermeable cap over the contaminated area will reduce the possibility of the waste in the soil from migrating into the ground water. In addition, continuation of the ground-water monitoring program will ensure that human health and the environment are not adversely impacted during the post-closure care period, if the contamination moves offsite.

Under proposed § 264.197(c), owners or operators of tank systems without secondary containment are required to prepare a contingent post-closure plan that will ensure that any potential post-closure care responsibilities are identified in the RCRA permit. The plan would be used only if all contaminated residues and soils (if any) cannot be removed at closure.

EPA believes that contingent post-closure plans should be required at tank facilities without secondary containment because, if such a system has had undetected leaks or spills in the past, it is possible that the material cannot be practicably removed from the soil without incurring unreasonable costs. Implementation of contingent post-closure plans will ensure that future threats to public health and the environment from these past releases at closed facilities are minimized, monitored, and controlled as necessary.

A facility that receives a waiver from the secondary-containment

requirements under § 264.193(i) need not prepare a contingent post-closure plan. This is because EPA would previously have examined the facility's design, operation, and location and determined that hazardous waste constituents will not migrate into ground water or surface water at any future time. Facilities with secondary-containment systems are likewise not required to prepare contingent post-closure plans because these systems should prevent releases into the environment. Under § 264.197(b), however, if a contained system has released hazardous waste and it all cannot be removed or be decontaminated at closure, then the facility must also meet the post-closure requirements of proposed § 264.197(b).

To implement fully the proposed requirements in § 264.197, EPA is also proposing a conforming change to the applicability section of § 264.110. This change makes tank systems subject to the general post-closure requirements of §§ 264.117–264.120.

9. Special Requirements for Ignitable or Reactive Wastes (§ 264.198)

The requirements in § 264.198 are the same as the existing standards with only one minor change: the owner or operator must ensure that the required precautions for tanks are taken throughout the entire tank system (i.e., tank and ancillary equipment). Since EPA is retaining the existing requirements, public comment is invited only on the applicability of these standards to the overall tank system as opposed to solely the storage or treatment tank.

10. Special Requirements for Incompatible Wastes (§ 264.199)

The requirements in § 264.199 are the same as the existing standards with only one minor change: the owner or operator must ensure that the required precautions for tanks are taken throughout the entire tank system (i.e., tank and ancillary equipment). Since EPA is retaining the existing requirements, public comment is invited only on the applicability of these standards to the overall tank system as opposed to solely the storage or treatment tank.

F. Interim Status Tank Systems (Part 265, Subpart J)

It was originally intended that the existing interim status standards apply at hazardous waste tank facilities for a relatively short time prior to the issuance of RCRA permits. It is expected, however, that many will not be permitted for several years. On the basis of the information discussed previously in this Preamble, EPA has concluded that a significant number of existing hazardous waste storage or treatment tank systems may be releasing hazardous wastes into the environment. The Agency is concerned that, under the existing interim status standards, these tanks will continue to release hazardous wastes into the environment undetected for an undetermined period of time.

As discussed previously, the Agency has also concluded that the existing Part 264 permitting standards are inadequate and do not prevent most of the releases or spills from tanks that are inevitable over time. The Part 265 requirements are even less stringent than the permitting standards. EPA is today proposing to amend the Part 265, Subpart J, as well as the Part 264, Subpart J, tank regulations. In most instances, the proposed amendments to the interim status tank standards correlate with the changes proposed for the permitting requirements.

As in Part 264, the existing interim status requirements are being revised to address tank systems (i.e., tank and ancillary equipment), not just tanks. The same regulatory strategy of containment with either full secondary containment or the groundwater monitoring option is being implemented. Evaluation of the tank system by a qualified registered professional engineer, corrosion protection, and leak testing of underground tanks are some of the regulatory options being proposed in a manner consistent with what is being proposed under Part 264. Because many of these facilities will eventually be permitted, the Agency has carefully considered the proposed interim status requirements to assure that these facilities follow similar management practices to those that will be required under RCRA tank permits.

The following discussion describes these requirements and the Agency's rationale for making the changes. To the extent possible, the previous discussions in today's Preamble that support similar requirements in Part 264 are cited but not repeated in this section.

1. Assessment and Certification of Tank System's Integrity (§ 265.191)

The Agency proposes to address the concern that a significant number of existing hazardous waste storage or treatment tank systems may be leaking and to locate such tank systems as soon as possible. Accordingly, § 265.191 proposes that within six months of the effective date of these regulations, all tank systems without full secondary containment be assessed and certified as able to store or treat hazardous waste in a manner that protects human health and the environment. The Agency believes that the required assessment under interim status should at least address all the concerns listed in proposed § 265.191. These assessments can then be used to meet both the interim status and permitting requirements (if the assessment is performed within one year of submitting the Part B application to EPA). The owner or operator would be responsible for the assessment, which would consist of a leak test of all underground tanks and piping and a qualified registered professional engineer's assessment and certification that the aboveground and inground tank systems are not leaking and are able to continue to be used for the storage/treatment of hazardous waste. EPA considers the guidelines in the API publication, *Guide for Inspection of Refinery Equipment*, Chapter XIII, "Atmospheric and Low Pressure Storage Tanks," to be appropriate for the assessment of most aboveground steel tanks.

Since corrosion is the primary cause for failure of metal tank systems, EPA believes that it is necessary for corrosion-protection measures to be instituted immediately, even prior to a tank system's being permitted. Thus, proposed § 265.191(b) requires that an evaluation of the potential for corrosion of metal tank systems be conducted by a corrosion expert within 1 year after these proposed regulations become effective. This evaluation should, of course, be performed only for those tank systems that are not presently leaking and that will continue to be used for the purpose of storing or treating hazardous waste.

The leak testing being proposed in § 265.191(a) for the underground components of tank systems without secondary containment would be similar to that commonly performed for gasoline storage tanks. A discussion of this technique was given in Section IV.B.2. The testing must be accurate enough to detect leaks to the .05 gallons per hour level, meeting the recommended NFPA standards for leak-testing sensitivity, and the results must be certified by the qualified personnel performing the test.

As discussed previously in Section IV.B.2., existing leak-testing technology has certain limitations. For example, current technology cannot reliably detect leaks of less than 0.05 gallon per hour. The Agency believes, nevertheless, that these required assessments and leak tests will be of crucial importance in identifying currently leaking tanks. Depending on the particular leak test employed,

underground piping and the tank itself may be tested simultaneously. If simultaneous testing is not done, a separate test must be conducted to determine the integrity of the piping.

Leak testing as described here applies only to underground tanks and piping. Thus, alternative methods must be used to assess the integrity of aboveground and inground tank systems. In many cases this could involve an intensive internal inspection using ultrasonic or similar equipment to detect the locations, if any, of existing or impending failures in the tank system.

Proposed § 265.191(a) requires that assessment and leak testing be conducted within 6 months of the effective date of the regulation. Under § 265.191(b) owners or operators have 1 year in which to conduct the evaluation of corrosion potential. The Agency believes that these requirements provide the regulated community with sufficient time to implement the assessment and conduct the tests to determine if tank systems are leaking.

EPA beleives that the proposed requirements will result in the identification of many, if not all, of the existing tank systems that are believed to be contaminating the environment.

2. Response to and Disposition of Leaking or Unfit-for-Use Tank Systems (§ 265.192)

EPA is today proposing several requirements under § 265.192 for tank systems that are found to be leaking or are otherwise unfit for storage or treatment of hazardous waste. These proposed requirements are intended to: stop any leak that is identified at a nonpermitted tank facility; require immediate containment of surface spills and remedial action for any release resulting from the identified leak(s); and remove from service either temporarily or permanently any tank system that is leaking or is unfit for service. Replacement tank systems must have full secondary containment.

Once a tank system is found to be leaking under the requirements of § 265.191, the owner or operator must take steps to minimize, contain, and clean up the release in accordance with proposed § 265.192(a). The Agency has decided that the first step in minimizing a potential release is to require that no hazardous waste be added to tank systems that are identified as leaking until the integrity of the primary containment system is restored (§ 265.192(a)(1)). Proposed § 265.192(a)(2) requires that the system must be sufficiently emptied to remove the threat of further release. Such emptying also facilitates any needed inspections and repairs. Under § 265.192(a)(3) the owner or operator must take immediate action to contain any visible contamination resulting from releases. This may, for example, entail the containment or removal of visibly contaminated soils.

Under the existing RCRA interim status standards, owners or operators are not required to report leaks to EPA; they are required to inspect tanks and containment structures for leaks on a regular basis and to make repairs as necessary. (See § 265.15(c) and § 265.194.) Under proposed § 265.192(a)(4), however, the Regional Administrator must be notified within 24 hours after confirmation of an actual leak. With respect to invisible leaks from underground portions of the tank system, the Agency intends this provisions to require that the notification takes place within 24 hours of the completion of a test or assessment that confirms the existence of a leak, such as the assessement required in § 265.191, if the assessement shows the tank system to be leaking. This notification should specify the way the leak was detected, the substance leaked or suspected of having leaked, the cause of the leak (if known), and the estimated extent of the leak.

Today's proposed RCRA notification requirement is not intended to include reports of minor leaks such as minor drips that are quickly detected and stopped. Any leak of hazardous substance that exceeds the "reportable quantity" established under sections 103 (a) and (b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), however, would not be considered a minor leak and must be reported to the Regional Administrator and to the National Response Center under CERCLA section 103(a).

If the assessment of the tank system required in proposed § 265.191 reveals a leak in the tank, this leak must be reported, and the steps proposed in § 265.192 must be followed. If a leak test of an underground tank and/or piping fails the standard in § 265.191(a), this leak must also be reported under the proposed provision. In addition, *all* leaks would have to be fully repaired before the system could be certified as fit for use in accordance with proposed § 265.191(c). Again, all leaks of a reportable quantity under CERCLA section 103(a) must be reported to the National Response Center as well as to the Regional Administrator under the new RCRA requirements discussed above.

Within 30 days of discovering a leak that must be reported under proposed § 265.192(a)(4), the owner or operator must determine under proposed § 265.194(a)(5) the extent of the release. This determination may be based, for example, on soil borings, sample soil excavations, or ground-water samples.

New RCRA section 3008(h), added by the 1984 Hazardous and Solid Waste Amendments, provides EPA authority to issue corrective action orders or such other measures as deemed necessary to protect human health and the environment from releases of hazardous waste from any facility authorized to operate under section 3005(e) of RCRA Subtitle C. Accordingly, a note has been added to the proposed rule explaining that the Regional Administrator may, on the basis of information received that there is or has been a release, issue an order under RCRA section 3008(h) requiring corrective action or such other response as is deemed necessary to protect human health or the environment.

Owners or operators must repair or close leaking or unfit tank systems in accordance with proposed § 265.192(b). Systems that are taken permanently out of service must meet the closure and post-closure care requirements of § 265.197. Repaired tanks must be recertified as conforming to the standards in proposed § 265.191 (a) and (b). This recertification must be submitted to EPA at least 7 days before a tank system is returned to service; this amount of time will enable EPA to conduct an inspection of the repaired system if the Agency believes it is necessary. (EPA recommends that the owner or operator consult API Publication 1631 for guidelines on the repairability of steel tank systems before a decision on repair is made.) Replaced tank systems are regarded as maintaining interim status but, because a replacement tank system would not encounter the problems presented by retrofitting full secondary containment that are present for existing facilities, § 265.192(b)(3) requires that all replacement tank systems have full secondary containment.

3. Secondary Containment (§ 265.193)

EPA is proposing to make secondary containment a requirement for non-permitted tank facilities under interim status. The additions to the Part 265 requirements are identical to the secondary-containment requirements proposed for Part 264, with a few exceptions. Below is a summary of these standards. (See Section V.E.4. for a more complete discussion of the proposed secondary-containment requirements.)

Under § 264.193 (b) and (c), the Aency is proposing to require general design and operating standards for all containment systems, as in § 264.193 (a) and (b). The specific secondary-containment requirements being proposed in Part 264 for the various categories of tanks are not, however, being proposed for tanks under interim status because the Agency believes that these standards can be most effectively implemented through a permit. The limited contact between the Agency and facilities under interim status may not provide either EPA or the owner/operator with sufficient opportunity and information with which to judge compliance with detailed design standards.

On the other hand, because the Part 265 standards are self-implementing, an argument can be made that specific Part 265 secondary containment standards are desirable and necessary so that the owner or operator can best achieve the level of protection intended by EPA. EPA invites public comment on whether the detailed requirements for secondary containment systems set forth in § 264.193(d) should be incorporated into the secondary containment requirements of § 265.193.

As in Part 264, existing facilities under interim status will be allowed to meet either the full secondary containment requirements or the ground-water monitoring option. Thus, in lieu of full secondary containment, the following alternatives are being proposed under § 265.193(e): (1) For *above- and in-ground tanks* where it is not practical to retrofit in order to contain releases from the tank—partial containment measures around the perimeter of the tank, consisting of a base and diking in conjuction with a ground-water monitoring program; (2) for *underground tanks*—a ground-water monitoring program supplemented with semiannual leak testing. (See "General Operating Requirements," below, for the leak-testing standards.) EPA is proposing that interim status tank systems be provided with a ground-water monitoring program that meets the Part 265—Subpart F requirements. Owners or operators of existing tank systems who choose the option of full secondary containment must install such a system within 1 year of the effective date of these amendments. The secondary-containment system must be designed, installed, and operated in compliance with the proposed performance requirements in § 265.193 (b) and (c). The system must detect and contain leaks and must be emptied when such leaks occur. Ancillary equipment must also be provided with either full secondary containment under § 265.193(d) or the ground-water monitoring option under § 265.193(e).

Also, as in Part 264, the owner or operator can obtain a waiver from all or part of the foregoing containment requirements (unless storing or treating the EPA Hazardous Waste Nos. FO20, FO21, FO22, FO23, FO26, and FO27 or unless the tank system is a replacement tank system subject to the requirements of § 265.192(b)(3), if it can be demonstrated that there will never be potential for migration of hazardous waste into ground or surface water. EPA requests comment on the alternative that the demonstration be made that no migration of hazardous waste will occur "during the operating life of the unit or during the post-closure period."

As discussed above, EPA believes there are several benefits to be derived from proposing, where possible, identical approaches for secondary containment under Parts 265 and 264. Owners or operators should also consider all of the more detailed requirements under Part 264 (including, for example, design requirements for tank systems before installing secondary containment). Each of these facilities will later need to be permitted, and, to the extent the requirements are the same, there will be reductions in permitting time and resources and elimination of the need for reconstruction or other costly modifications.

Because there may be little if any opportunity for the owner or operator to work out the details for his secondary-containment system with EPA during interim status, the Agency is developing a guidance manual to assure that the methods for attaining such equivalence are understood.

4. General Operating Requirements (§ 265.194)

All of the existing Part 265 general operating standards have been retained but, in addition, some new standards are being proposed in concert with other changes that are being proposed in Parts 265 and 264.

Proposed § 265.194(b) modifies the existing requirement to make clear that the present freeboard standards must be met unless a secondary containment structure or a stand-by tank is provided. Because all aboveground and inground tank systems must have at least partial secondary containment within 1 year of the effective date of the final amendments, this standard will apply until such secondary containment is provided.

Under proposed § 265.194(d), underground tanks and piping are required to be leak tested every six months if full secondary containment is not provided (i.e., if the ground-water monitoring option is followed). This is the same requirement that is being proposed for such tanks under proposed § 264.193(g). The Agency believes that this requirement is particularly important for the underground components of tank systems because they cannot be observed during the routine daily inspections that are already required. These leak tests will ensure that releases from these systems are identified and corrected. In many cases, the leak test will alert the owner or operator to a release prior to it being detected by ground-water monitoring. These tests and required follow-up actions (if any are needed) must be conducted in accordance with the requirements in §§ 265.191(a) and 265.192, which were discussed previously in this Preamble. After the initial assessments, records of leak tests conducted in accordance with proposed § 265.191 must be kept at the facility. If, however, a test shows a leak exists, the owner or operator must notify the Agency within 24 hours of obtaining the results of the leak test, and he must comply with the other requirements of proposed §265.192.

EPA considered requiring a periodic assessment for interim status aboveground and inground tank systems. A number of factors, however, convinced the Agency that such a requirement is not necessary. First, each of these tank systems must be evaluated within six months of final promulgation of today's proposed rules. Second, for those tank systems for which a Part B is submitted more than a year subsequent to this evaluation, another evaluation is required at time of submittal of the Part B application. Third, due to the cost and laborious nature of performing internal tank inspections (as discussed in Section V.E.2.a.) and the variety of factors influencing the selection of appropriate assessment schedules for various types of tank systems, the Agency is reluctant to specify a uniform frequency for these inspections that would be applicable to all interim status tank systems. Because there is limited interaction with EPA during interim status, there would be no opportunity to negotiate a schedule for such assessments on a case-by-case basis.

Public comment is invited on the appropriateness of EPA's decision not to require periodic comprehensive inspections of aboveground and

inground tank systems during interim status.

Proposed § 265.194(f) requires that all metal tank systems found to be susceptible to external corrosion as a result of the evaluation required in § 265.191(b) be provided with corrosion protection that will ensure the integrity of the tank system for its intended life. Publications developed by the National Association of Corrosion Engineers (NACE) and API may be used for guidance on corrosion protection for tank systems.

5. Waste Analysis and Trial Tests (§ 265.195)

The § 265.195 is the same as existing § 265.193.

This section is not being revised but is presented only to clarify for the reader the overall structure of these proposed tank system standards. EPA is not reproposing this section and as such is not requesting or accepting public comment on this section.

6. Inspections (§ 265.196)

Except for minor revisions reflecting changes that are being made in some of the other interim status standards, the proposed inspection requirements are the same as the existing standards. For example, proposed § 265.196(b) adds the requirement that leak-detection equipment, which is being proposed as part of the secondary-containment requirements, be inspected daily.

Proposed § 265.196(c) revises the existing standard to make clear that only the aboveground portions of the tank system must be inspected daily to detect corrosion or leaking.

Under proposed § 265.196(d) the existing standard has been revised to focus the inspection on releases around the area of the secondary-containment system as well as the tank. This change reflects the incorporation of secondary-containment requirements being proposed today for interim status tank facilities.

As proposed in § 265.192(a)(4), the owner or operator must notify the Regional Administrator within 24 hours after confirmation of a leak. The owner or operator must also notify the National Response Center of the release of any reportable quantity of a hazardous waste pursuant to Sections (103(a) of CERCLA.

7. Closure and Post-Closure Care (§ 265.197)

The existing closure standard for tanks has been revised and expanded under proposed § 265.197. The requirements are the same as those proposed in § 264.196. (See Section V.E.8. for a detailed discussion of the Agency's rationale for these changes.)

8. Special Requirements for Ignitable or Reactive Wastes (§ 265.198)

The requirements in § 265.198 are essentially the same as those under the existing standards with the exception of those changes that are also proposed in § 264.198. (See Section V.E.9. for a discussion of these changes.) Since EPA is retaining the existing requirements, public comment is invited only on the applicability of these standards to the overall tank system as opposed to solely the storage or treatment tank.

9. Special Requirements for Incompatible Wastes (§ 265.199)

The existing requirements for incompatible waste in § 265.199) are essentially the same as those under the existing standards with the exception of these changes that are also proposed in § 264.199. (See Section V.E.10. for a discussion of these changes). Since EPA is retaining the existing requirements, public comment is invited only on the applicability of these standards to the overall tank system as opposed to solely the storage or treatment tank.

G. Permitting Requirements

1. Specific Part B Information Requirements for Tanks (§ 270.16)

In order to receive a RCRA permit for a hazardous waste treatment, storage, or disposal facility, owners or operators must submit sufficient information in Parts A and B of a two-part permit application to demonstrate that the facility's methods of compliance are technically appropriate in relation to the Part 264 standards. Today's proposal does not change the requirements for the contents of Part A of the application, which are in § 270.13. The contents of Part B of the application are specified in §§ 270.14–270.21. Today's proposal revises the specific Part B information requirements for tanks (§ 270.16), but does not change the general information requirements (§ 270.14).

The existing requirements for Part B of the RCRA permit application for hazardous waste treatment or storage tanks were promulgated, along with the Part 264 technical standards, on January 12, 1981. (See the Preamble to that rulemaking for a general discussion of the Part B application requirements [46 FR 2841–2842].) The Part B requirements were subsequently recodified under Part 270 on April 1, 1983 (48 FR 14238). Today's proposal completely revises the specific Part B information requirements that apply to tanks (§ 270.16) and tailors them to today's proposed technical standards for tanks in Part 264, Subpart J.

EPA has proposed only those application information requirements that it believes are needed to evaluate the facility's compliance with the appropriate standards.

2. Changes During Interim Status (§ 270.72)

In order to enable owners or operators to comply with the containment requirements in § 265.193, interim status facilities will need to retrofit their tank systems. Currently, any changes during interim status are limited to the requirements in § 270.72 to: (a) new hazardous wastes not previously identified in the Part A application; (b) increases in the design capacity of processes; (c) changes in or the addition of processes; (d) changes in the ownership or operational control of the facility. Under § 270.72(e), changes cannot be made to an interim status facility that amount to reconstruction of the facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty percent of the capital costs of a comparable new facility.

If the proposed requirement for secondary containment systems at interim status facilities results in a capital expenditure that exceeds fifty percent of the capital cost of an entirely new facility, such changes would violate the reconstruction prohibition of § 270.72(e).

Accordingly, the Agency believes that the existing requirements of § 270.72(e) need to be amended to exclude the changes required by this proposal from the changes referred to in § 270.72(e).

Therefore, § 270.72(e) is being amended to exclude changes made solely for the purpose of complying with the secondary containment requirements of § 265.193. In this way, owners or operators will be able to comply with either the full secondary or partial secondary containment requirements of § 265.193 without violating the reconstruction prohibition.

VI. Relationship to the Current RCRA Hazardous Waste Program

A. Small Quantity Generators

Under the existing hazardous waste regulations, generators of less than 1000 kg per month of non-acutely hazardous wastes are conditionally exempted by 40 CFR 261.5 from most of the requirements of Subtitle C. The 1984 amendments, however, added a new provision to RCRA, section 3001(d),

designed to modify this regulatory exemption for small quantity generators. New section 3001(d) directs EPA to promulgate standards no later than March 31, 1986, applicable to generators of between 100 and 1000 kg per month of hazardous waste ("100–1000 kg/mo generators").

At a minimum, section 3001(d) standards must require that all treatment, storage, or disposal of hazardous wastes generated by 100–1000 kg/mo generators occur at facilities with interim status or a permit. However, the standards must allow generators of 100–1000 kg/mo to store hazardous waste for up to 180 days without the need for interim status or a RCRA permit (or 270 days if they store no more than a total of 6000 kg of waste and the waste is shipped or hauled over 200 miles for offsite storage, treatment, or disposal). In addition, the standards for 100–1000 kg/mo must generally require that a copy of the Uniform Hazardous Waste Manifest accompany all offsite shipments.

If EPA fails to promulgate standards under section 3001(d) by March 31, 1986, section 3001(d)(8) imposes a statutory "hammer," which, among other things, would impose the minimum requirements described above.

The potential impact and applications of the proposed regulation on small quantity generators has not been fully evaluated. Therefore, the universe of generators potentially impacted and the estimates of the effects of this rule may be subject to change. The following discussion explains the requirements of RCRA section 3001(d) and its potential impact on small quantity generators who store or treat hazardous waste in tanks. The Agency will decide whether to apply the Subpart J requirements to small quantity generators during the proposal of that rule.

1. Proposed Standards for 100–1000 kg/mo Generators

EPA is now developing proposed regulations to satisfy the requirements of new section 3001(d). It is likely that EPA will propose subjecting 100–1000 kg/mo generators to most of the Part 262 requirements applicable to generators of larger quantities of hazardous waste. Specifically, it is likely that small quantity generators will be required to meet the applicable § 262.34 (less than 90-day accumulator) requirements. However, the 1984 RCRA Amendments (section 3001(d)) provide that the period of on-site storage allowed without a permit or interim status can be extended for 100–1000 kg/mo generators to 180 days (or 270 days if the waste does not exceed 6000 kg and is to be shipped over 200 miles). Accordingly, if the requirements for tanks being proposed today become final, and EPA also finalizes the small quantity generator proposal as discussed above, the tank regulations being proposed today would also apply to 100–1000 kg/mo generators. Those 100–1000 kg/mo generators storing for up to 180 (or 270 days) would, therefore, be governed by the Subpart J requirements for tanks referenced in proposed § 262.34, including the requirement for secondary containment. These generators would not have the option of ground-water monitoring in lieu of secondary containment. Generators of 100–1000 kg/mo storing wastes in tanks for greater than 180 (or 270) days would be subject to Parts 264 and 265, as well as the requirement to obtain a RCRA permit.

The Agency estimates that these requirements could impose an additional annual compliance cost of $37 million for all small quantity generators storing hazardous waste in tanks.

EPA is considering modifying the proposed standards applicable to 100–1000 kg/mo generators who store hazardous waste in tanks for less than 180 (or 270) days to provide that such generators satisfy all requirements set forth in § 262.34 *except* for the proposed § 262.34 requirement for full secondary containment. This limited exemption from secondary containment requirements would be available under conditions that restrict both the amount of waste stored and the duration of waste stored. Further, the exemption could be withdrawn at the discretion of the Regional Administrator in situations that are known to pose an unacceptable risk to human health and the environment.

2. Section 3001(d)(8) Hammer Provision

In the event that EPA fails to promulgate standards for small quantity generators by March 31, 1986, section 3001(d)(8) imposes certain statutory "hammer" provisions. Among those requirements is an allowance for on-site storage by generators of 100–1000 kg/mo for up to 180 (or 270) days without the requirement for a permit. This hammer provision does not impose substantive management requirements, such as those contained in § 262.34 on such on-site storage. However, 100–1000 kg/mo generators who store for *more* than 180 (or 270) days will be required to obtain a permit or qualify for interim status. Since EPA's current regulations impose substantive requirements on all facilities having interim status or a permit, a 100–1000 kg/mo generator storing for more than 180 (or 270) days will be subject to Subpart J of Part 265 during interim status and Subpart J of Part 264 under its permit.

The Agency estimates that if the hammer provisions become effective, those 100–1000 kg/mo generators storing wastes in tanks for longer than 180 (or 270) days would incur additional annual costs of $17.6 million.

3. Request for Comments

The Agency will be seeking comment on small quantity generator standards when those standards are proposed this summer. Nevertheless, the tank rules being proposed today may have a substantial impact on 100–1000 kg/mo generators if the tank rules become final. For this reason, EPA solicits comment on options for regulating the storage of hazardous waste in tanks by small quantity generators and the impact of this proposed rule upon such generators. By requesting comments in this proposal, as well as in the small quantity generator proposal, EPA hopes to provide the regulated community an opportunity to focus their comments on the impacts that today's proposed tank rule will have if it were to apply to 100–1000 kg/mo generators.

B. State Authority

1. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. (See 40 CFR Part 271 for the standards and requirements for authorization.) Following authorization, EPA retains enforcement authority under sections 3008, 3013, and 7003 of RCRA although authorized States have primary enforcement responsibility.

Prior to the Hazardous and Solid Waste Amendments of 1984 (HSWA) amending RCRA, a State with final authorization administered its hazardous waste program entirely in lieu of the federal program. The federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities in the State which the State was authorized to permit. When new, more stringent federal requirements were promulgated and enacted, the State was obligated to enact equivalent authority within specified time frames. New federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

Under newly enacted section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed

by the HSWA take effect in nonauthorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, the HSWA applies in authorized States in the interim.

2. Effect on State Authorizations

Because many of the requirements that are being proposed today to revise the existing standards for management of hazardous waste in tank systems are imposed pursuant to the Hazardous and Solid Waste Amendments of 1984, they would be applicable in all States. Included in this category are: Requirements for underground tanks not enterable for inspection, leak detection including secondary containment for new tank systems, and response measures (i.e., requirements in §§ 264.196 and 265.192). Thus, EPA will implement these standards in nonauthorized States and in authorized States until they revise their programs to adopt these rules and the revision is approved by EPA.

A State may apply to receive either interim or final authorization under section 3006(g)(2) or 3006(b), respectively, on the basis of requirements that are substantially equivalent or equivalent to EPA's. The procedures and schedule for State adoption of these regulations is described in 40 CFR 271.21. See 49 FR 21678 (May 22, 1984). Similar procedures should be followed for section 3006(g)(2).

Applying § 271.21(e)(2), States that have final authorization must revise their programs within a year of promulgation of EPA's regulations if only regulatory changes are necessary, or within two years of promulgation if statutory changes are necessary. These deadlines can be extended in exceptional cases (40 CFR 271.21(e)(3)).

States that submit official applications for final authorization less than 12 months after promulgation of EPA's regulations may be approved without including standards equivalent to those promulgated. However, once authorized, a State must revise its program to include standards substantially equivalent or equivalent to EPA's within the time period discussed above.

Today's announcement also proposes standards that will not be in effect in authorized States since the requirements are not being imposed pursuant to the Hazardous and Solid Waste Amendments of 1984. Included in this category are those standards being proposed for existing tank systems that are enterable for inspection and that have been subject to State requirements considered no less stringent than the federal requirements of Part 264, Subpart J. Also included are tanks subject to the 90-day accumulation provisions of 40 CFR 262.34. Thus, these requirements will be applicable only in those States that do not have interim or final authorization. In authorized States, the requirements will not be applicable until the State revises its program to adopt equivalent requirements under State law.

40 CFR 271.21(e)(2) requires that States that have final authorization must revise their programs to include equivalent standards within a year of promulgation of these standards if only regulatory changes are necessary, or within two years of promulgation if statutory changes are necessary. These deadlines can be exended in exceptional cases (40 CFR 271.21(e)(3)). Once EPA approves the revision, the State requirements become Subtitle C RCRA requirements.

States that submit official applications for final authorization less than 12 months after promulgation of these standards may be approved without including equivalent standards. However, once authorized, a State must revise its program to include equivalent standards within the time period discussed above. The process and schedule for revision of State programs is described in amendments to 40 CFR 271.21 published on May 22, 1984. (See 49 FR 21678.)

C. Storage and Treatment of Dioxin-Containing Wastes in Tanks

On January 14, 1985 (50 FR 1978), EPA promulgated an amendment to Part 261 of the RCRA hazardous waste regulations that listed wastes containing certain chlorinated dioxins (CDDs), dibenzofurans (CDFs), and phenols and their phenoxy derivatives as hazardous wastes. Final amendments to Part 264 were also promulgated that specified certain management standards for the storage and treatment of these wastes in aboveground, inground, and underground tanks that can be entered for inspection. Thus, existing § 264.200 requires secondary containment of spills or leaks of dioxin-containing wastes from tanks in accordance with these performance standards. Under existing § 264.194(c)(2), such facilities must also have procedures in their contingency plan for responding to spills or leaks from the tank into the containment system.

Today's proposal would delete these special requirements for permitting dioxin tanks and substitute the proposed standards that would be applicable to all RCRA tanks, with two exceptions. First, the proposal will not allow new or existing tanks storing or treating dioxin-containing wastes the option of utilizing the ground-water monitoring alternative instead of secondary-containment. (See proposed §§ 265.193(e) and 264.193(f).) Second, tanks storing or treating these wastes will not be allowed to seek a waiver of secondary-containment requirements as proposed under §§ 265.193(f) and 264.193(i). As discussed in the Preamble to the amendments to Part 264, it is well documented that these extremely toxic wastes present a substantial hazard to human health and the environment. In addition, EPA's experience shows that these wastes are particularly difficult and expensive to clean up. This requirement for containment of dioxin wastes is the same as the existing requirements in § 264.200.

The existing standard in § 264.194(c)(2) that requires procedures in the contingency plan for responding to spills or leaks of dioxin-containing wastes from the tank into the containment system becomes applicable for all tanks in proposed § 264.195(f).

Today's proposal includes several requirements that may be more stringent than the existing special permitting requirements for dioxin. For example, today's proposed standards for corrosion protection and leak tests are not required under the existing special standards. If EPA issues RCRA permits to tanks storing dioxin-containing wastes under the existing permitting requirements, the Agency intends to consider these concerns. New RCRA section 3005(c)(3), added to RCRA by the 1984 Hazardous and Solid Waste Amendments, provides the Agency (or any authorized State) authority to require any terms or conditions in permits beyond those mandated by current regulations if such terms or conditions are deemed necessary to protect human health and the environment. This amendment gives the Agency the authority to incorporate new requirements in permits when EPA intends to add such requirements to the regulations but has not yet issued a final regulatory amendment. See S. Rep. 98-284, 98th Cong., 1st Sess. (October 28, 1983).

D. Class Permitting for Storage in Tanks

On July 20, 1984, EPA proposed a standard permit application and reduced requirements for a class of

facilities (see 49 FR 29524–29550) consisting of generators whose only activity subject to RCRA permitting is the storage of hazardous wastes generated onsite in aboveground tanks or containers for more than 90 days. Today's proposed amendments will have no impact on most of these facilities because they store hazardous waste in containers only, but will impact approximately 210 facilities that have at least one tank onsite.

IF today's proposed revisions to the RCRA tank standards become final, the standard permit application form as it applies to tanks would have to be modified to reflect these revisions were it to be applied to tanks. Changes to the application requirements (Parts 270) will be made in proposed form at the time that this proposal becomes final and will be tailored to the final changes to the Part 264, Subpart J, standards being proposed today.

VII. Relationship to Other EPA Programs

A. Regulation of Leaking Underground Storage Tanks ("Lust" Program)

Under new Subtitle I of the amended Resource Conservation and Recovery Act that became law on November 8, 1984, the Agency has been charged to study, report on, develop, and implement a program to regulate underground storage tanks that contain "regulated substances" other than hazardous waste. The Agency estimates that there may be over 3 million such tanks containing petroleum and chemical products that will eventually be covered under this program.

Prior to the passage of this new statute, the Agency had begun a nationwide survey of approximately 1,050 underground tank facilities storing motor fuels. This survey, including leak testing of approximately 500 tanks, will be completed by November 1985 at which time the Agency expects to report its findings.

To avoid any confusion that might arise among the public, including the regulated community, the Agency believes it is important to emphasize that today's proposed standards for hazardous waste tank systems do not apply to this new and broader Congressional initiative to control underground storage tanks containing "regulated substances." Today's proposed revisions should not be interpreted as indicating the Agency's intended regulatory strategy (which is still being planned) for managing the storage of regulated substances or as establishing precedents for underground tanks regulated under Subtitle I of RCRA. In fact, the requirements proposed today, as they apply to underground hazardous waste storage tanks, may be significantly different in many ways from the standards that will be developed in the future for underground tanks storing regulated substances.

A number of factors underly the Agency's belief that two different regulatory approaches are necessary, and will continue to cause them to be developed separately from each other.

First, there are differences in the statutory language of Subtitles C and I. Although regulations under Subtitle I, like Subtitle C, must be "necessary to protect human health and the environment," section 9003(b) of Subtitle I specifies that EPA may distinguish between types, sizes, and ages of tanks taking into account a number of factors including, for example, current industry practices and national consensus codes. The legislative history of this provision suggests that Congress intended that EPA build upon existing industry practices in developing its regulations, taking into special account the needs of small businesses.

Another difference between Subtitles C and I is that Subtitle C requires implementation of a permit system while Subtitle I does not. Requirements that can be implemented through interaction between EPA and the tank owner or operator, therefore, would not be implementable under Subtitle I in the absence of a permit system.

Other differences stem from the differences in the nature of tanks and the size of the tank universe regulated under Subtitles C and I. With respect to differences in the number of tanks subject to each Subtitle, the proposed Subtitle C tank regulations affect a total universe of approximately 15,000 tanks. Subtitle I, on the other hand, may affect as many as 3 million tanks or more. A major consideration in developing Subtitle I regulations, therefore, will be ability of owners and operators to implement the requirements without EPA oversight and EPA ability to enforce the requirements.

Finally, with respect to difference in the nature of the tanks governed by Subtitles C and I, management practices for product tanks may differ from those hazardous waste tanks, thus making certain protective measures more feasible at one than the other.

For example, as described in Section IV.B., inventory monitoring of hazardous waste tank sytems has several drawbacks. Such monitoring is, however, already a widespread practice throughout the retail gasoline service industry, and, therefore, these drawbacks may not apply for tanks containing petroleum products. For the reason, the Agency is carefully considering whether it is feasible and effective to require inventory monitoring as a management tool for leak detection at least at existing underground tank facilities storing petroleum-based products. Likewise, the effectiveness of inventory monitoring for other regulated substance storage tanks will also be evaluated.

B. EPA's Ground-Water Protection Strategy

In August 1984, EPA published "A Ground Water Protection Strategy" (a copy of which is included in today's rulemaking docket), which was developed at the direction of the Administrator. The strategy's main goals are to: strengthen State ground-water protection programs; cope with currently unaddressed problems related to ground-water contamination; create a policy framework for guiding EPA programs; and strengthen EPA's organization for ground-water management. One of the important conclusions of this report is that States, with local governments, have the principal role in ground-water protection and management. An important role for EPA in this area is to provide national environmental leadership and to develop a general program framework for ground-water protection. The strategy provides general guidelines by which to establish consistency in EPA's ground-water protection programs. These guidelines are based on recognition that protection should be afforded to a ground-water resource in order to allow the highest beneficial use for which it could presently or potentially be used.

The strategy establishes that the protection of particularly sensitive and valuable ground water (Class I) is of critical importance. EPA intends to use its authorities to the greatest extent possible to provide the protection that these unique and highly important resources require. Class II is described as that ground water currently used or potentially available for drinking water or for other beneficial uses (e.g., irrigation). Under this strategy, this class will receive a level of protection consistent with gound water standards under EPA's existing statutes. Class III ground water is described as that which is saline or otherwise contaminated beyond levels that would allow for drinking or other beneficial purposes and is not hydraulically connected to Class I or II ground waters or to surface waters in a way that would allow

contaminants to migrate to these waters and potentially cause adverse effects on human health or the environment. The strategy provides that this ground water may, in some instances, receive less protection. For example, hazardous waste facilities located over Class III areas could be required to meet the same technical standards as facilities over the other classes. If, however, contamination resulting from human activity occurs in Class III ground waters, the extent of cleanup required would be evaluated on a case-by-case basis. Should contamination pose no risk to human health and the environment (if the ground water is not usable or controls prevent its use), then, under RCRA, cleanup requirements could be reduced or eliminated.

To implement the strategy, EPA will consider a series of changes to existing RCRA regulations and may develop new regulations or guidelines that support the Agency's goal of providing consistent levels of ground-water protection throughout its programs. Today's proposed hazardous waste tank regulations constitute one area where the existing RCRA regulations may need to be altered to be consistent with the new ground-water protection strategy. For example, the strategy calls for EPA to ban the siting of new land disposal facilities above Class I ground water and to clean up contamination in all cases to background or drinking water standards. Conversely, the strategy also allows, on a case-by-case basis, a reduction or elimination of requirements for cleanup over Class III ground water. Specific regulatory language is not being proposed today because the detailed definitions, criteria, and guidelines necessary to implement the strategy are still being developed by EPA. The Agency requests comment on these and other alternatives for developing tank regulations that implement the ground-water strategy.

Several alternatives that may be appropriate for hazardous waste storage or treatment tanks include: a ban of new underground tanks from being located over Class I ground water; special management of existing tanks situated over Class I ground water (e.g., retrofitting all existing tanks to include secondary containment); elimination of any cleanup variances (ACLs) over Class I water; determination of the degree of protection, if any, needed at tank systems over Class III ground water, i.e., possibily eliminating secondary containment or modifying ground-water monitoring and leak testing requirements and liberal cleanup variances for tanks located over Class III ground water.

C. Reportable Quantities under CERCLA

Sections 103 (a) and (b) of CERCLA (or "Superfund") require persons in charge of vessels or facilities to notify the National Response Center immediately when there is a release of hazardous substances in quantities that are equal to or greater than the reportable quantity (RQ) for that substance. All RCRA hazardous wastes listed under RCRA are designated as hazardous substances and assigned RQs under 40 CFR 302.4. Solid wastes exhibiting characteristics identified in Subpart C of Part 261 are also hazardous substances under CERCLA. As a result, RQ releases of all hazardous wastes from RCRA tanks must be reported pursuant to section 103 of CERCLA, unless they are a federally permitted release, as defined under section 101(10) of that Act.

The major purpose of this notification program is to alert government officials of releases of hazardous substances that may require rapid response to protect public health and welfare and the environment. Under Section 104 of CERCLA, the Federal Government may respond whenever there is such a release or a substantial threat of release into the environment. Thus, the RQ is essentially a trigger for notifying the government so that the need for response can be evaluated and any necessary response can be undertaken promptly. While experience shows that the government does not undertake a field response to all reported releases, reporting will enable the government to make the appropriate response deteremination. Failure to report such releases may result in penalties under section 103(b).

In the preamble to an earlier proposed rule, "Notification Requirements; Reportable Quantity Adjustments," the Agency determined that releases from hazardous waste management facilities with final RCRA permits were considered federally permitted releases for purposes of CERCLA. (See 48 FR 23556, May 25, 1983.) It was also determined, however, that this exemption does not apply to facilities in interim status pursuant to section 3005(e) of RCRA. Today's proposed revisions to the RCRA tank rules do not change that earlier decision. Thus, any releases from tank facilities in interim status must be reported to the NRC.

As discussed in Section V of this Preamble, EPA is today proposing requirements concerning response to and disposition of leaking or unfit-for-use tank systems discovered during interim status. (See proposed § 265.192.) These provisions require, among other things, that the EPA Regional Administrator be notified within 24 hours after a leak is discovered under the assessment required in proposed § 265.191. EPA may choose to respond quickly to such notices to ensure that other RCRA requirements in § 265.192(a) are being met (i.e., the tank system is being expeditiously removed from service to stem the flow of any further releases, and steps are being taken to contain any surface leakage). Meeting these initial requirements under RCRA will not, however, relieve the owner or operator of the notification requirements or any future liabilities or responsibilities under CERCLA.

VIII. Economic Analysis.

The Agency undertook an analysis of the proposed hazardous waste tank regulation amendments to determine the extent of the associated costs and economic impacts on the regulated community. These analyses also provided the Agency with the necessary information for determining whether the proposed revisions will constitute a major rule under Executive Order 12291, or have significant small business impacts on a substantial number of small businesses as the Agency is required to consider under the Regulatory Flexibility Act.

The following discussion summarizes the methodology and the results of the analyses supporting these findings. Further detail of the cost and economic analyses for the proposed tank regulations can be found in the docket reports, *Cost Analysis of Proposed RCRA Regulations for Hazardous Waste Tank Facilities* and *Economic Impact Analysis of Proposed RCRA Regulations for Hazardous Waste Tank Facilities.*

A. Cost and Economic Impact Methodology

The analysis found in these reports is based on the cost estimates for facilities sampled in the Office of Solid Waste's Regulatory Impact Analysis (OSW RIA) survey. The data from the tank and generator questionnaires indicte that the proposed tank regulations could affect facilities in a variety of two digit SIC's. The most prominant SICs are chemicals and allied products; petroleum and coal products; fabricated metals; and electric and electronic equipment.

EPA estimated incremental compliance costs for Parts 262, 264 and 265 for each sample facility. The primary focus of the proposed revisions is the

requirements for secondary containment. EPA estimated these facility costs from cost functions developed for tanks based on material of construction and the size of the tank. For purposes of estimating total national costs, EPA assumed a number of existing tanks are leaking on the basis of tank type, age, and size.

For accumulation tanks, the Agency estimated the cost of retrofitting all accumulation tanks with full secondary containment. For storage or treatment tanks assumed to be leaking, EPA estimated the cost of replacing the tank including full secondary containment. For storage or treatment tanks not assumed to be leaking, EPA estimated the least expensive option of either retrofitting full secondary containment *or* partial secondary containment/leak testing and ground-water monitoring.

For the Parts 265 and 264 revisions, EPA also included the cost of requiring an assessment of the integrity of the tank system and corrosion protection for steel tanks. Part 264 permitting standards require a more detailed tank integrity assessment. However, the difference in cost between 265 and 264 standards are minimal. In order to estimate the economic impacts associated with the proposed regulatory costs, the Agency collected financial data for each facility in the survey population. The analysis of publicly available financial information estimated the ability of affected facilities, firms, and industries to bear the increased costs of the proposed regulations.

The Agency first estimated net income of each firm in the OSW RIA database. To determine whether compliance costs for a facility may be significant, EPA investigated whether the ratio of annualized compliance costs to total annual cash flow is greater than 20 percent. If so, a firm is identified as having financial difficulties in complying with the potential regulations.

For firms identified as such, EPA examined each facility's financial profile to determine whether the facility has financial difficulty exclusive of the proposed compliance costs or has assets that could be redirected in order to finance compliance with the proposed requirements. From this analysis, EPA determined the extent of impacts on facilities for the Nation.

In order to determine whether a substantial number of small businesses would be significantly affected by the proposed regulations, EPA compared average compliance costs for small business to model small business annual net income levels. This analysis allowed the Agency to determine at what level compliance costs would be greater than 20 percent of a small business annual net income.

From this result EPA could estimate the percentage of small businesses that would incur financial difficulty in complying with the proposed regulations. As suggested in the Regulatory Flexibility Act guidelines, if less than 20 percent of the small businesses that must comply with the regulations incur financial hardship as a result, then EPA does not consider the proposed regulations to result in significant small business impacts.

B. Cost and Economic Impacts

EPA estimated total national compliance costs in four categories. The first category of compliance costs are initial costs. Initial costs are those which are incurred in the first year, but are not depreciable capital costs. An example of an initial cost is the tank integrity assessment requirement. The second category of compliance costs are the capital costs. Tank facilities may incur these costs in the first year or they may occur periodically over the life of the tank. Capital costs are depreciable costs. An example of a capital cost is the secondary containment requirement for tanks.

Third, EPA estimated operating and maintenance (O&M) compliance costs. O&M costs are incurred by tank facilities periodically during the year. These compliance costs would include periodic inspections of monitoring equipment. Finally, EPA estimated annualized costs. Annualized costs represent the initial and capital costs on a yearly basis over the life of the tank plus the O&M costs on an annual basis.

The Agency estimated the total initial costs of regulatory Parts 265 and 264 to be approximately $18 million, total capital costs are about $163 million, and the total O&M costs are about $3 million. EPA estimates the total initial costs of the regulatory Part 262 amendments to be about $5.5 million and the capital costs to be about $49.5 million if we assume all accumulation tanks are aboveground. If all accumulation tanks are assumed to be underground, the Part 262 total initial costs are about $17 million and the capital costs are about $150.5 million. The Part 262 total O&M costs are estimated to be about $2 million.

For the purpose of estimating the impacts of these proposed rule revisions, costs are annualized based on an average 12.9 percent real rate of return for a period of 20 years. The Agency estimated the annualized cost of regulatory Parts 265 and 264 amendments to be about $29 million for approximately 1,700 storage and treatment facilities in the United States. For the 2,100 accumulation tank facilities, EPA estimated the annualized cost of the Part 262 amendment to be between $9.6 million and $25.5 million. Thus, the estimated total national annualized cost of the regulatory proposal is between $38.6 and $54.6 million.

Tables I and II display the incremental costs new tank facilities will face under the proposed tank permitting standards. These costs represent installing new tanks that comply with the full secondary containment requirement. As the tables indicate, there is a wide variation in the incremental cost of the secondary containment requirement, depending upon the type and number of tanks.

The results of our financial analysis on the sample facilities indicate that EPA does not expect any plant closure as a result of the amendments to Parts 262, 264, and 265. For example, EPA estimates that about 88 percent of the storage and treatment tank facilities and between 76 percent and 82 percent of the accumulation tank facilities will incur annualized compliance costs less than one percent of their firm's net income.

TABLE I.—INSTALLED COSTS FOR NEW CARBON STEEL ABOVEGROUND TANKS WITH FULL SECONDARY CONTAINMENT

[Dollars in thousands]

Number of tanks	Size of tanks (gallon)	Tank systems without full secondary containment			Tank systems with full [1] secondary containment			Incremental cost of full secondary containment		
		Initial	O&M	Annualized	Initial	O&M	Annualized	Initial	O&M	Annualized
1	3,000	$9	$0	$1.3	$13	$0.25	$2.1	$4	$0.25	$0.8
1	10,000	14	0	2.0	24	.25	3.6	10	.25	1.6
1	125,000	149	0	21.1	190	.25	27.1	41	.25	6.0

TABLE I.—INSTALLED COSTS FOR NEW CARBON STEEL ABOVEGROUND TANKS WITH FULL SECONDARY CONTAINMENT—Continued

[Dollars in thousands]

Number of tanks	Size of tanks (gallon)	Tank systems without full secondary containment			Tank systems with full [1] secondary containment			Incremental cost of full secondary containment		
		Initial	O&M	Annualized	Initial	O&M	Annualized	Initial	O&M	Annualized
4	10,000	59	0	8.3	87	25	12.6	28	25	4.3

[1] Full secondary containment costs include a lined concrete basin underneath and surrounding the tank(s) with diking around the perimeter and leak monitoring. There is 35 feet of underground piping that is double-walled, corrosion resistant steel with interstitial monitoring. There is 15 feet of above-ground piping that is in the tank secondary containment area.

TABLE II.—INSTALLED COSTS FOR NEW CARBON STEEL ABOVEGROUND TANKS WITH FULL SECONDARY CONTAINMENT

[Dollars in thousands]

No. of tanks	Size of tanks (gallon)	Tank systems without full secondary containment			Tank systems with full [1] secondary containment			Incremental cost of full secondary containment		
		Initial	O&M	Annualized	Initial	O&M	Annualized	Initial	O&M	Annualized
1	3,000	$10	$0	$1.4	$23	$0.25	$3.5	$13	$0.25	$2.1
1	10,000	19	0	2.7	39	.25	5.8	20	.25	3.1
1	20,000	30	0	4.2	57	.25	8.1	27	.25	4.1
3	10,000	48	0	6.8	100	.25	14.4	52	.25	7.6

[1] Full secondary containment costs include double-walled tanks and 50 feet of double-walled, corrosion resistant underground steel piping and interstitial monitoring.

The majority of the remaining facilities will either incur compliance costs less than 20 percent of net income or have assets that can be redirected to cover compliance costs. Thus, EPA does not anticipate significant financial impacts for the Nation. As there are no significant financial impacts for individual facilities, the Agency expects no overall price, wage, or employment shifts in industries with facilities using hazardous waste tanks.

Finally, the small business analysis indicates that the proposed hazardous waste tank amendments will not result in a substantial number of small businesses incurring significant impacts. Our analysis indicates that between 17 and 19 percent of the small businesses subject to the regulations will be significantly affected. The Regulatory Flexibility Guidelines suggest that if less than 20 percent of the relevant small businesses are significantly affected, then a Regulatory Flexibility Analysis is unnecessary. Therefore, although EPA intends to improve the small business analysis as the data improves, the Agency will not undertake a Regulatory Flexibility Analysis.

IX. Review of Supporting Documents and Request for Public Comments

EPA invites public comments on all aspects of these proposed regulations, including all issued raised in the Preamble. In preparing this proposal, the Agency has used several sources of data (the major sources are listed below). They have been placed in the rulemaking docket, which may be inspected by the public in Room S-212(c), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C., from 9:00 am to 4:00 pm, Monday through Friday, excluding holidays. Copies of several of these documents are also available for public inspection and review in the libraries of EPA's Regional Offices.

Although the Agency used the background documents supporting the existing RCRA tank regulations, it based today's proposal primarily on information that has been gathered since promulgation of the RCRA tank permitting standards on January 12, 1981. Among the sources EPA has used are: in-house and contractors' studies; written communications from EPA Regional permitting officials; and public comments on the January 12, 1981 regulations and Preamble. All these items are available for viewing in the public docket at EPA Headquarters. In addition, copies of the major studies are available in the libraries of EPA's Regional Offices. Comments are solicited in regard to these sources of informtion, especially their relevance to today's proposed rulemaking. The Agency requests that these comments be submitted to the RCRA Docket Clerk (Docket No. 3004, Revised Tank Standards, Office of Solid Waste, WH-562, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460) on or before September 24, 1985.

A brief discussion concerning these sources of information follows.

1. *Assessment of the Technical, Environmental, and Management Aspects of Storage and Treatment of hazardous Waste in Above-ground and Inground Tanks* by SCS Engineers (August 1984). The objectives of this EPA-sponsored study were to define current practices for hazardous waste storage in aboveground and inground tanks; evaluate these practices in relation to data on spills and damages and best engineering judgment; estimate the relative probability and magnitude of releases from aboveground tanks; and examine alternatives for prevention and/or mitigation of releases. Shell thickness and secondary containment were among the alternatives assessed. An analysis included evaluation of approximately 2,000 releases reported to the mutually exclusive SPCC amd PIRS data systems.

2. *Assessment of the Technical, Environmental, and Safety Aspects of Storage of Hazardous Waste in Underground Tanks* by SCS Engineers (February 1984). The objectives of this study were to define current practices for hazardous waste storage in underground tanks; evaluate these practices in relation to data on spills and damages and best engineering judgment; estimate the relative probability and magnitude of releases from underground tanks; and examine appropriate alternatives for prevention and/or mitigation of releases.

3. *Seismic Location Standard: The Physical Effects of Seismic Events on Hazardous Waste Facilities* and *The Risks Associated with Earthquake Damage at Hazardous Waste Facilities* by Livermore Associated Research Group, Inc. (LARG), (December 1982). This report assessed the impact of seismic events on hazardous waste management facilities, including tanks. Tanks were reported to be a major contributor to the risk of release of hazardous waste due to seismic activity.

4. *A Brief In-House Statistical Summary of an 1981 National Survey Data Re: Hazardous Waste Tanks.* This statistical summary, which is based on EPA-sponsored national survey data, presents significant characteristics of a sampling of actual hazardous waste

tank facilities (e.g., age of tank, design capacity, material of construction).

5. *National Survey of Hazardous Waste Generators and Treatment, Storage, and Disposal Facilities Regulated under RCRA in 1981* by Westat Inc. (April 1984). This report summarizes the methodology and findings of an extensive national survey of hazardous waste generators and treatment, storage, and disposal facilities regulated under Subtitle C of RCRA.

6. *Cost of Analysis of Proposed RCRA Regulations for Hazardous Waste Tank Facilities* by ICF, Inc. (February 1985). The purpose of this study was to develop regulatory cost functions for facilities with hazardous waste tanks. These cost functions are based on tanks at model facilities developed by EPA from the OSW tank survey (see No. 4 above). The cost functions are used to estimate regulatory costs for the actual facilities in the survey sample. The facility costs are extrapolated to national costs and are used to determine expected economic impacts resulting from the regulations.

7. *Economic Impact Analysis of Proposed RCRA Regulations for Hazardous Waste Tank Facilities* by ICF, Inc. (January 1985). The purpose of this study was to estimate the financial effects of the requirements on the regulated community. The study also analyzes the expected impacts on small businesses to determine whether a regulatory flexibility analysis is necessary. Finally, the report examines economic impacts in terms of changes in prices, number of employees, and output.

8. *A Brief Compilation of Hazardous Waste Tank Damage Cases Impacting or Threatening Community Drinking Water Well Systems* (May 7, 1984). This brief in-house survey of some of the Agency's data bases provides a brief illustration of some of the known or suspected causes of releases from tanks that may be impacting or threatening community drinking water well systems at various sites throughout the United States.

9. *EPA Permit-writer Memos on the Subject of Minimum Shell Thickness.* Memos from many of the EPA Regional Offices and Headquarters offices that are involved in the permitting of hazardous waste storage facilities were obtained on the topic of minimum shell thickness.

As the memos show, the EPA Regions are generally unanimous in their opinion concerning the minimum shell thickness requirements: they are difficult to implement; they have placed an unnecessary burden on many owners and operators of tank facilities, especially those with secondary containment; and they have only a limited effect in controlling releases from tanks.

10. *Public Comments on the January 12, 1981, RCRA Tank Permit Standards.* All the public comments received on the tank regulations promulgated in 1981 and a summary of them are included in the docket at EPA Headquarters. These comments were considered by EPA in developing today's proposal.

X. Schedule for Public Hearings

The Agency will hold three public hearings on today's proposal. They are scheduled to convene at three different locations and at the dates indicated below:

1. *August 9, 1985*—Washington, D.C.
   Department of Health and Human Services, North Auditorium, 330 Independence Avenue SW., Washington, D.C. 20201
2. *August 13, 1985*—Chicago, Illinois
   The Westin Hotel O'Hare, 6100 River Road, Rosemont, Illinois 60018
3. *August 15, 1985*—San Francisco, California
   San Francisco Hilton & Towers, Pacific Room, 330 O'Farrell Street, San Francisco, California 94102

The hearings will begin at 9:30 a.m., with registration at 9:00 a.m. The hearings will end at 4:30 p.m., unless concluded earlier. Anyone wishing to make a statement at the hearing should notify, in writing, Ms. Geraldine Wyer, Public Participation Officer, Office of Solid Waste [WH-562], U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Oral and written statements may be submitted at the public hearing. Persons who wish to make oral presentations must restrict them to 15 minutes and are encouraged to have written copies of their complete comments for inclusion in the official record.

XI. Compliance With Executive Order 12291

Sections 2 and 3 of Executive Order 12291 (46 FR 13193, February 9, 1981) require that a regulatory agency determine whether a new regulation will be "major" and, if so, that a Regulatory Impact Analysis be conducted. A major rule is defined as one that is likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, and local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Today's proposal of revised standards for RCRA tank facilities will have none of the above effects. Because the proposed amendments do not meet the definition of a major regulation, the Agency is not conducting a Regulatory Impact Analysis at this time. However, EPA will perform a risk analysis to support the final rule. EPA has prepared background information supporting this determination; this documentation is in the Economic Impact Analysis Report, which may be examined at the RCRA Public Docket Office.

These proposed amendments have been submitted to the Office of Management and Budget (OMB) for review pursuant to Section 6 of the Executive Order.

XII. Paperwork Reduction Act

Pursuant to Section 3504(h) of the Paperwork Reduction Act of 1980, the reporting and recordkeeping provisions of today's proposed rule have been submitted for OMB approval. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs, OMB, 726 Jackson Place NW., Washington, D.C. 20503, marked: Attention—Desk Officer for EPA. Should EPA promulgate a final rule, the Agency will respond to comments by OMB or the public regarding the information collection provisions of the rule.

XIII. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*), whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities (i.e., small business, small organizations, and small governmental jurisdictions.) No regulatory flexibility analysis is required, however, if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

EPA has conducted some analysis of the impacts on small businesses, which is included in the Economic Impact Analysis Report (EIAR). However, the forthcoming small quantity generator rule may require facilities generating between 100–1000 kg/mo to comply with the requirements specified in today's proposal. The EIAR does not include the

potential impact on small businesses of the small quantity generator rule. The EIAR is available for public viewing in the docket for today's proposal.

On the basis of the analysis conducted thus far, EPA has determined that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects

40 CFR Part 260

Administrative practice and procedure, Confidential business information, Hazardous materials, Waste treatment and disposal.

40 CFR Part 262

Hazardous materials, Waste treatment and disposal, recycling.

40 CFR Part 264

Hazardous materials, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Waste treatment and disposal.

40 CFR Part 265

Hazardous materials, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Waste treatment and disposal, Water supply.

40 CFR Part 270

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: June 14, 1985.

Lee M. Thomas,

Administrator.

For the reasons set out in the Preamble, it is proposed to amend 40 CFR Chapter I as set forth below:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

40 CFR Part 260 is amended as follows:

1. The authority citation for Part 260 is revised to read as follows:

Authority: Secs. 1006, 2002(a), 3001 through 3007, 3010, 3014, 3015, 3017, 3018, and 3019 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921 through 6927, 6930, 6934, 6935, 6937, 6938, and 6939).

2. It is proposed to amend § 260.10 by adding the following terms and definitions in alphabetical order:

§ 260.10 Definitions.

* * * * *

"Above-ground tank" (AGT) means a device meeting the definition of "tank" in § 260.10 and that is situated in such a way that the base of the tank is at or above the plane of ground level.

* * * * *

"Ancillary equipment" means any device used to distribute, meter, or control the flow of hazardous waste to or from the storage or treatment tank(s), including but not limited to such devices as piping, fittings, flanges, gaskets, valves, and pumps.

* * * * *

"Corrosion expert" refers to a person who, by reason of his knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experiences, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such person may be a registered professional engineer or may be a person certified as being qualified by the National Association of Corrosion Engineers if such licensing or certification includes suitable experience in corrosion control on buried or submerged metal piping systems and metal tanks.

* * * * *

"Existing tank system" means a tank system that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced, on or prior to (put in effective date of these regulations). Installation will be considered to have commenced if the owner or operator has obtained all Federal, State, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and either (1) a continuous onsite physical construction or installation program has begun, or (2) the owner or operator has entered into contractual obligations—which cannot be canceled or modified without substantial loss—for physical construction of the site or installation of the tank system to be completed within a reasonable time.

* * * * *

"Inground tank" (IGT) means a device meeting the definition of "tank" in § 260.10 that is situated to any degree within the ground, i.e., below the plane of ground level, but is neither completely buried nor situated so that the tank bottom is above the plane of ground level.

* * * * *

"Leak-detection system" means a system for providing the capability to detect within 24 hours the failure of either the primary- or secondary-containment structure or the presence of liquid in the secondary-containment structure. Such a system may consist of operational controls (i.e., inspections) or a device designed to detect leaks.

* * * * *

"New tank system" means a tank system for which installation has commenced after (put in the effective date of these regulations). (See definition of existing tank system for the determination of when installation has commenced.)

* * * * *

"Tank system" means any storage or treatment tank and the ancillary equipment associated with that tank. It does not include the secondary containment system associated with the tank system.

* * * * *

"Underground tank" (UGT) means a device meeting the definition of "tank" in § 260.10 whose entire surface area is wholly submerged within the ground (i.e., totally below the surface of and covered by the ground), or is otherwise covered with a material so that expeditous inspection of the tank's exterior surface area is precluded.

* * * * *

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

40 CFR Part 262 is amended as follows:

3. The authority citation for Part 262 is revised to read as follows:

Authority: Secs. 1006, 2002, 3001, 3002, 3003, 3004, 3005, and 3017 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6906, 6912, 6922, 6923, 6924, 6925, and 6937).

4. It is proposed to amend § 262.34 by revising paragraph (a)(1), adding a new paragraph (a)(2) and redesignating paragraphs (a)(2) through (a)(4) as paragraphs (a)(3) through (a)(5) as follows:

§ 262.34 Accumulation time.

(a) A generator may accumulate hazardous waste onsite for 90 days or less without a permit or without having interim status provided that:

(1) The waste is placed in containers and the generator complies with Subpart I of 40 CFR Part 265, or the waste is placed in tanks and the generator complies with §§ 265.192(a)(1)–(4), 265.194(a)–(c), 265.196, 265.197 (a) and (b), 265.198 and 265.199 of Subpart J of 40 CFR Part 265;

(2) Tanks that are used to accumulate hazardous waste are provided with secondary containment equivalent to that prescribed in § 265.193(b)–(c) within 1 year of the effective date of those sections;

(3) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(4) While being accumulated onsite, each container and tank is labeled or marked clearly with the words, "Hazardous Waste;" and

(5) The generator complies with the requirements of owners or operators in Subparts C and D of 40 CFR Part 265, and with § 265.16.

* * * * *

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

40 CFR Part 264 is amended as follows:

5. The Authority citation for Part 264 is revised to read as follows:

Authority: Secs. 1006, 2002, 3004, and 3005 of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6924, and 6925].

6. It is proposed to amend the Table of Contents and heading of Part 264, Subpart J—Tanks by revising it to read:

* * * * *

Subpart J—Tank Systems

Sec.
264.190 Applicability.
264.191 Design of tank systems.
264.192 Installation of new tank systems.
264.193 Secondary containment.
264.194 General operating requirements.
264.195 Inspections.
264.196 Response to and disposition of leaking or unfit-for-use tank systems.
264.197 Closure and post-closure care.
264.198 Special requirements for ignitable or reactive wastes.
264.199 Special requirements for incompatible wastes.

* * * * *

§ 264.15 [Amended]

7. It is proposed to amend § 264.15 General inspection requirements in paragraph (b)(4) by removing the reference to "§ 264.194" and adding "§ 264.195".

§ 264.73 [Amended]

8. It is proposed to amend § 264.73 Operating record requirements in paragraph (b)(6) by adding a reference to "§ 264.192".

9. It is proposed to amend § 264.110 in Subpart G—Closure and Post-closure by adding a new paragraph (b)(3):

§ 264.110 Applicability.

* * * * *

(b) * * *

(3) Tank systems to the extent that these sections are made applicable to such facilities in § 264.197.

* * * * *

10. It is proposed to amend § 264.140 in Subpart H—Financial Requirements by adding a new paragraph (b)(3):

§ 264.140 Applicability.

* * * * *

(b) * * *

(3) Tank systems to the extent that these Sections are made applicable to such facilities in § 264.197.

* * * * *

11. It is proposed to amend the Subpart J— Tank Systems requirements by revising the Subpart as follows:

Subpart J—Tank Systems

§ 264.190 Applicability.

The requirements of this Subpart apply to owners and operators of facilities that use tank systems for storing and/or treating hazardous waste except as otherwise provided in § 264.1 of this Part.

§ 264.191 Design of tank systems.

Owners or operators of tank systems must obtain and submit to the Regional Administrator a written assessment by a qualified registered professional engineer of the system's structural integrity and acceptabilty for the storing and treating of hazardous waste. This assessment, which will be used by the Regional Administrator to judge the acceptabilty of the tank system design, must include, at a minimum, the following information:

(a) For new tank systems:

(1) Design standard(s) according to which the tank is constructed;

(2) Design standard(s) according to which the ancillary equipment is constructed; and

(3) Hazard characteristics of the waste(s) to be handled.

(b) For existing, used, and reused tanks systems:

(1) Design standard(s), if available, according to which the tank(s) and piping system components were constructed;

(2) Description of the tank system (e.g., size, age, material of construction);

(3) Hazard characteristics of the waste(s) that have been and will be handled;

(4) Estimated remaining life of the tank system; and

(5) Results of a leak test that is capable of detecting a leak equal to or greater than 0.05 gallons per hour (for underground tank systems) or an internal inspection (for above- and inground tank systems) performed within the past year.

(c) For all metal tank systems in which all or part of the tank system is or will be in contact with the soil, a determination by a corrosion expert of: (1) Factors affecting the potential for corrosion, including but not limited to:

(i) Soil moisture content;

(ii) Soil pH;

(iii) Soil sulfides level;

(iv) Soil resistivity;

(v) Structure to soil potential;

(vi) Influence of nearby underground metal structures (e.g., piping);

(vii) Existence of stray electric current;

(viii) Existing corrosion-protection measures (i.e., coatings, cathodic protection).

and (2) the type and degree of corrosion protection needed to ensure the integrity of the tank system for its intended life, consisting of one or more of the following:

(i) Corrosion-resistant materials of construction such as special alloys, fiberglass reinforced plastic, etc.;

(ii) Corrosion-resistant coating (such as epoxy, fiberglass, etc.)

(iii) Cathodic protection (i.e., impressed current or sacrificial anodes); or

(iv) Electrical isolation devices such as insulating joints, flanges, etc.

Note.—The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP–02–85)—Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, *Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems*, may be used as guidelines in providing corrosion protection for tank systems.

(d) For underground tank system components that are likely to be affected by vehicular traffic, a determination of design or operational measures that will protect the tank system against potential damage; and

(e) Design considerations to ensure that:

(1) Tank foundations will maintain the load of a full tank; and

(2) Tank systems will be anchored to prevent flotation and/or dislodgment where the tank system is placed in a saturated zone, or is located within a

seismic fault zone subject to the standards of § 264.18(a).

§ 264.192 Installation of new tank systems.

(a) The owner or operator must ensure that proper handling procedures are adhered to in order to prevent damage to the tank system during installation. Prior to covering, enclosing, or placing a new tank system in use, a qualified installation inspector or a qualified professional registered engineer who is trained in the proper installation of tank systems must inspect the system for the presence of any of the following items:

(1) Weld breaks;

(2) Punctures;

(3) Scrapes of protective coatings;

(4) Cracks;

(5) Corrosion;

(6) Other structural damage or inadequate construction/installation.

All discrepancies must be remedied before the system is placed in service.

(b) Backfill material must be a noncorrosive, porous substance. Tanks that are placed underground must be carefully backfilled so that the backfill is placed completely around the tank and compacted to ensure that the tank is fully and uniformly supported.

(c) All tanks and ancillary equipment must be tested for tightness prior to being covered, enclosed, or placed in use. All leaks must be remedied before the system is placed in service.

(d) Piping systems must be supported and protected against physical damage and excessive stress owing to settlement, vibration, expansion, or contraction.

Note.—The piping system installation procedures described in API Publication 1615 (November 1979), *Installation of Underground Petroleum Storage Systems*, or ANSI Standard B31.3, "Petroleum Refinery Piping," and ANSI Standard B31.4 "Liquid Petroleum Transportation Piping System," may be used as guidelines for proper installation of piping systems.

(e) The owner or operator must provide the type and degree of corrosion protection determined by the Regional Administrator to be necessary to ensure the integrity of the tank system for its intended life, based on the information provided under § 264.191(c). A corrosion expert must supervise the installation of any cathodic protection system.

(f) Written statements by those persons required to supervise the installation of tank systems in accordance with the requirements of paragraphs (a)–(e) of this section which attest that the tank system was properly installed, must be kept on file at the facility. These written statements must also include a certification as required in § 270.11(d)

§ 264.193 Secondary containment.

(a) Except as allowed under paragraphs (f), (g), (h), and (i) of this section, a tank system must be designed, installed, and operated with a secondary containment system that:

(1) Prevents any migration of wastes or accumulated precipitation out of the tank system to the soil ground water or to surface water at any time during the use of the tank system;

(2) Detects and collects any releases of waste and accumulated precipation until the collected material can be removed;

(3) Removes or permits the removal of spilled or leaked waste and accumulated precipitation in as timely a manner as is necessary to prevent releases from the secondary containment system.

(b) To meet the requirements in paragraph (a) of this section all secondary-containment systems must be at a minimum:

(1) Constructed of or lined with materials that are compatible with the waste(s) to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which it is exposed, climatic conditions, the stress of installation, and the stress of daily operation (including stresses from nearby vehicular traffic);

(2) Placed on a foundation or base capable of providing support to the secondary containment system and resistance to pressure gradients above and below the system and capable of preventing failure owing to settlement, compression, or uplift;

(3) Provided with a leak-detection system that is designed or operated so that it will detect the presence of any release of hazaradous waste or accumulated liquid in the secondary containment system within 24 hours of entry of the liquid into the system;

(4) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation;

(5) Designed or operated to contain 110 percent of the design capacity of the largest tank within its boundary;

(6) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity in addition to that required in paragraph (b)(5) of this section to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25 year, 24 hour rain storm.

Notes.—If the collected material is a hazardous waste under Part 261 of this Chapter, it is subject to management as a hazaradous waste in accordance with all applicable requirements of Parts 262 through 265 of this chapter. If the collected material is discharged through a point source to waters of the United States, it is subject to the requirements of sections 307 and 402 of the Clean Water Act, as amended.

(c) Secondary containment for aboveground, inground, and underground tanks must include one or more of the following devices:

(1) A liner (external to the tank);

(2) A vault;

(3) A double-walled tank; or

(4) An equivalent device as approved by the Regional Administrator.

(d) In addition to the requirements of paragraphs (a), (b), and (c) of this section, liners, vaults, and double-walled tank systems must satisfy the following requirements:

(1) External liner systems must be:

(i) Free of cracks or gaps; and

(ii) Installed to cover all surrounding earth likely to come into contact with the waste if released from the tank(s) (i.e., capable of preventing lateral as well as vertical migration of the waste).

(2) Vault systems (concrete) must be:

(i) Constructed as an continuous structure with chemical resistant water stops in place at all joints (if any);

(ii) Provided with an interior coating that is compatible with the stored waste for the purpose of preventing migration of waste through the concrete and also an exterior moisture barrier to prevent migration of moisture into the vault; and

(iii) Provided with a noncorrosive porous fill material around the tank if the waste being stored meets the definition of ignitable waste under § 261.21 of this chapter.

(3) Double-walled tanks must be:

(i) Designed as a integral structure (i.e., an inner tank with an outer shell) so that any release from the inner tank is contained by the outer shell;

(ii) Protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell; and

(iii) Provided with a built-in leak monitor.

Note.—The provisions outlined in the Steel Storage Tank Institute's (STI) "Standard for Dual Wall Underground Steel Storage Tanks" may be used as guidelines for the design of underground steel double-walled tanks.

(e) Ancillary equipment associated with tanks must be provided with secondary containment (e.g., trench, double-walled piping) that meet the

requirements of (a) and (b) of this section.

(f) As an alternative to complying with the full secondary containment requirements of paragraphs (a), (b), (c), (d), and (e) of this section, the owner or operator of an existing tank system, except for those used to store or treat EPA Hazardous Waste Nos. FO20, FO21, FO22, FO23, FO26, and FO27, may implement a ground-water monitoring program in accordance with the requirements of paragraph (g) of this Section. Owners or operators who choose to implement a ground-water monitoring program in lieu of complying with the secondary-containment requirements of § 264.193(a)–(e) must also install partial secondary containment for any above ground portion of the tank system consisting of a leak-proof base and diking that meet the requirements of § 264.193 (a), (b), and (d)(1).

(g) The ground-water monitoring requirements of this section apply to owners and operators of tank systems that do not have full secondary containment in accordance with paragraphs (a)–(e) of this section. Owners and operators subject to this section must comply with the following requirements:

(1) The owner or operator must install a ground-water monitoring system at a compliance point to be specified in the permit by the Regional Administrator.

(i) The compliance point is a vertical surface located at the hydraulically downgradient limit of the waste management area that extends down into the uppermost aquifer underlying the tank system.

(ii) The waste management area is the limit projected in the horizontal plane of the area covered by the tank system. The waste management area includes any horizontal space taken up by the tank or any ancillary equipment connected to the tank.

(iii) If the facility contains more than one tank system, the waste management area is described by an imaginary line circumscribing the several tank systems.

(2) The owner or operator must monitor for indicator parameters (e.g., specific conductance, total organic carbon, or total organic hologen), waste constituents, or reaction products that provide a reliable indication of the presence of hazardous constituents in ground water. The Regional Administrator will specify the indicators or constituents to be monitored in the facility permit, after considering the following factors:

(i) The types, quantities, and concentrations of constituents in wastes contained in the tank system;

(ii) The mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the tank system;

(iii) The detectability of indicators, waste constituents, and reaction products in ground water; and

(iv) The concentration or values and coefficients of variation of proposed monitoring parameters or constituents in the ground-water background.

(3) The ground-water monitoring system required by this section must comply with the following requirements:

(i) The ground-water monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield ground-wafer samples from the uppermost aquifer that:

(A) Represent the quality of background water that has not been affected by leakage from a tank system; and

(B) Represent the quality of ground water passing through the compliance point.

(ii) If a facility contains more than one tank system, separate ground-water monitoring systems are not required for each tank system provided that provisions for sampling the ground-water in the upper-most aquifer will enable detection and measurement at the compliance point of monitoring parameters or constituents from the tank systems that have entered the environment.

(iii) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring-well bore hole. This casing must be screened or perforated and packed with gravel or sand, where necessary, to enable collection of ground-water samples. The annular space (i.e., the space between the bore hole and well casing) above the sample depth must be sealed to prevent contamination of samples and the ground-water.

(iv) The ground-water monitoring program must include consistent sampling and analysis procedures that are designed to ensure monitoring results that provide a reliable indication of ground-water quality below the waste management area and that accurately measure monitoring parameters or constituents in ground-water samples. At a minimum, the program must include procedures and techniques for:

(A) Samples collection;

(B) Sample preservation and shipment;

(C) Analytical procedures; and

(D) Chain of custody control.

(v) The ground-water monitoring program must include a determination of the ground-water surface elevation each time ground water is sampled.

(4) The owner or operator must establish a background value for each of the monitoring parameters or constituents specified in the permit pursuant to paragraph (g)(2) of this section. The permit will specify the background values for each parameter or specify the procedures to be used to calculate the background values. The owner or operator must comply with the following requirements in developing the data base used to determine background values:

(i) Background ground-water quality for a monitoring parameter or constituent must be based on data from quarterly sampling of wells upgradient from the waste management area for one year.

(ii) Background quality may be based on sampling of wells that are not upgradient from the waste management area where hydrogeological conditions do not allow the owner or operator to determine what wells are upgradient; or sampling at other wells will provide an indication of background ground-water quality that is as representative or more representative than that provided by the upgradient wells.

(iii) In developing the data base used to determine a background value for each parameter or constituent, the owner or operator must take a minimum of four samples from the entire system used to determine background ground-water quality each time the system is sampled.

(5) The owner or operator must determine ground-water quality at each monitoring well at the compliance point at least semi-annually during the active life of the tank system (including any closure and post-closure care period required under § 264.196). The owner or operator must express the ground-water quality at each monitoring well in a form necessary for the determination of statistically significant increases.

(6) The owner or operator must determine whether there is a statistically significant increase over background values for any parameter or constituent specified in the permit pursuant to paragraph (g)(2) of this section each time he determines ground-water quality at the compliance point under paragraph (g)(5) of this section.

(i) In determining whether a statistically significant increase has occurred, the owner or operator must compare the ground-water quality at each monitoring well at the compliance point for each parameter or constituent to the background value for that parameter or constituent, according to

the statistical procedure specified in the permit under paragraph (g)(7) of this section.

(ii) The owner or operator must determine whether there has been a statistically significant increase at each monitoring well at the compliance point within a reasonable time period after completion of sampling. The Regional Administrator will specify that time period in the facility permit, after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground-water samples.

(7) The owner or operator must use the following statistical procedure in determining whether background values or concentration limits have been exceeded:

(i) If the background value has a sample coefficient of variation less than 1.00:

(A) The owner or operator must take at least four portions from a sample at each well at the compliance point and determine whether the difference between the mean of the constituent at each well (using all portions taken) and the background value for the constituent is significant at the 0.05 level using the Cochran's Approximation to the Behrens-Fisher Student's t-test as described in Appendix IV of this part. If the test indicates that the difference is significant, the owner or operator must repeat the same procedure (with at least the same number of portions as used in the first test) with a fresh sample from the monitoring well. If this second round of analyses indicates that the difference is significant, the owner or operator must conclude that a statistically significant change has occurred; or

(B) The owner or operator may use an equivalent statistical procedure for determining whether a statistical procedure for determining whether a statistically significant change has occurred. The Regional Administrator will specify such a procedure in the facility permit if he finds that the alternative procedure reasonably balances the probability of falsely identifying a non-leaking tank system and the probability of failing to identify a leaking tank system in a manner that is comparable to that of the statistical procedure described in paragraph (g)(7)(i)(A) of this section.

(ii) In all other situations, the owner or operator must use a statistical procedure providing reasonable confidence that the migration of hazardous constituents from a tank system into and through the aquifer will be indicated. The Regional Administrator will specify a statistical procedure in the facility that he finds:

(A) Is appropriate for the distribution of the data used to establish background values or concentration limits; and

(B) Provides a reasonable balance between the probability of falsely identifying a non-leaking tank system and the probability of failing to identify a leaking tank system.

(8) The owner or operator must determine the ground-water flow rate and direction in the uppermost aquifer at least annually.

(9) If the owner or operator determines, pursuant to paragraph (g)(8) of this section, that there is a statistically significant increase for parameters or constituents specified pursuant to paragraph (g)(2) of this section at any monitoring well at the compliance point, he must:

(i) Notify the Regional Administrator of this finding in writing within seven days. The notification must indicate what indicators or constituents have been detected; and

(ii) Assess the integrity of the tank system by conducting a leak test (of underground system) in accord with paragraph (h) of this section and by a thorough inspection of any aboveground or inground tank systems.

(h) All underground tank systems that do not have full secondary containment that meets the requirements of this section must be leak tested at least semi-annually in accordance with the following:

(1) A leak test of every underground tank to detect any leak equal to or greater than 0.05 gallon per hour and

(2) A leak test of all underground piping to detect any leak equal to or greater than 0.05 gallon per hour, or a pressure drop of 5 pounds per square inch per minute.

(i) Except for tanks used to store or treat EPA Hazardous Waste Nos. FO20, FO21, FO22, FO23, FO26, and FO27, the owner or operator may be exempted from all or part of the requirements of this Section if the Regional Administrator finds, as a result of a demonstration by the owner or operator, that alternative design and operating practices, together with location characteristics, will prevent the migration of any hazardous waste or hazardous constituents into the ground water or surface water at any future time.

In deciding whether to grant an exemption, the Regional Administrator will consider:

(1) The nature and quantity of the wastes;

(2) The proposed alternate design and operation;

(3) The hydrogeologic setting of the facility, including the thickness of soils present between the tank system and ground water; and

(4) All other factors that would influence the quality and mobility of the hazardous constituents and the potential for them to migrate to ground water or surface water.

§ 264.194 General operating requirements.

(a) Hazardous wastes or treatment reagents must not be placed in a tank system if they could cause the tank or its ancillary equipment to rupture, leak, or corrode, or otherwise fail before the end of its intended life.

(b) The owner or operator must use appropriate controls and practices to prevent spills and overflows from tank or secondary containment systems. These include at a minimum:

(1) Spill prevention controls (e.g., check valves, dry disconnect couplings);

(2) Overfill prevention controls (e.g., automatic feed cutoff or bypass to a standby tank); and

(3) Maintenance of sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation.

§ 264.195 Inspections.

(a) The owner or operator of a tank system must develop a schedule and procedure for inspecting overfill controls, where present (e.g., level-sensing devices, high-level alarms, waste feed cutoff and bypass systems).

(b) The owner or operator must inspect at least once each operating day:

(1) The aboveground portions of the tank system, if any, to detect corrosion or leaking of waste from fixtures, joints, and seams; and

(2) Data gathered from continuous monitoring and leak detection equipment, if any, (e.g., pressure or temperature gauges, monitoring wells, leak-detection devices) to ensure that the tank system is being operated according to its design.

(c) The owner or operator must inspect on at least a weekly basis the construction materials of, and the area immediately surrounding the externally accessible portion of the tank system and the secondary-containment system, to detect erosion or signs of leakage (e.g., wet spots, dead vegetation).

(d) The owner or operator must inspect cathodic-protection systems, if present, according to, at a minimum, the following schedule to ensure that they are properly functioning:

(1) The operation and components of impressed current systems must be inspected at least monthly for such items as: anode deterioration, rectifier

malfunction, power interruption, and rectifier output;

(2) The anode output of a sacrificial anode system must be inspected at least semiannually; and

(3) The tank system to soil potential measurement must be conducted at least annually to ensure a minimum level of −0.85 volts.

(e) A schedule and procedure must be developed for assessing the overall condition of the tank system. The schedule and procedure must be adequate to detect obvious cracks, leaks, and corrosion or erosion that may lead to cracks or leaks. The frequency of these assessments must be based on the material of construction of the tank and its ancillary equipment, the age of the system, the type of corrosion- or erosion-protection used, the rate of corrosion or erosion observed during the previous inspection, and the characteristics of the waste being stored or treated.

Note.—The practices described in the API Publication *Guide for Inspection of Refinery Equipment*, Chapter XIII, "Atmospheric and Low-Pressure Storage Tanks," 4th edition, 1981, may be used as guidelines for assessing the overall condition of the tank system.

§ 264.196 Response to and disposition of leaking or unfit-for-use tank systems.

(a) As part of the contingency plan required under Subpart D of Part 264, the owner or operator must specify procedures for responding to spills or leakage from tanks, including procedures for expeditious removal of leaked or spilled waste. These procedures must be available for review by EPA upon request and must include:

(1) Measures for containing any visible contamination resulting from a release from the tank system that has occurred or is occurring;

(2) Measures for immediate removal of waste from the tank and containment system;

(3) Procedures for conducting assessments of the risk to human health and the environment owning to a release from a tank system and the remedial actions necessary to mitigate the severity of a release;

(4) Steps for obtaining, prior to returning repaired or replaced tank systems or secondary-containment systems to service, a certification by a qualified registered professional engineer that the system is capable of handling hazardous waste for the intended useful life of the tank system without permitting its release into the environment. This certification must be submitted in writing to the Regional Administrator at least seven (7) days prior to the system being returned to service.

(b) The owner or operator must promptly, in accordance with the procedures set forth in the contingency plan, remedy any malfunction, deterioration, leak, spill, or crack.

§ 264.197 Closure and post-closure care.

(a) At closure of a tank system, the owner or operator must remove or decontaminate all residues, contaminated containment system components (liners, etc.), contaminated soils, and structures and equipment contaminated with waste and manage them as hazardous waste unless § 261.3(d) of this chapter applies.

(b) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, soils, structures, and equipment as required in paragraph (a) of this section, the owner or operator finds that not all contaminated soils can be practicably removed or decontaminated, he must close the tank system and perform post closure care in accordance with the closure and post-closure care requirements that apply to landfills (§ 264.310).

(c) The closure plan for the tank system under § 264.12 must include details for complying with paragraph (a) of this section.

(d) The owner or operator of a tank system that does not comply with the full secondary containment requirements of § 264.193(a)-(d), must: (i) Include in the closure plan for the tank system under § 264.112 both a plan for complying with paragraph (a) of this section and a contingent plan for complying with paragraph (b) of this section in case not all contaminated soil can be practicably removed at closure; and (ii) prepare a contingent post-closure plan under § 264.118 for complying with paragraph (b) of this section in case not all contaminated soil can be practicably removed at closure.

(e) The cost estimates for closure and post-closure care must be calculated in accordance with the requirements under §§ 264.142 and 264.144, respectively.

§ 264.198 Special requirements for ignitable or reactive wastes.

(a) Ignitable or reactive waste must not be placed in a tank system, unless:

(1) The waste is treated, rendered, or mixed before or immediately after placement in the tank system so that the resulting waste, mixture, or dissolved material no longer meets the definition of ignitable or reactive waste under §§ 261.21 or 261.23 of this Chapter, and § 264.17(b) is complied with; or

(2) The waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

(3) The tank system is used solely for emergencies.

(b) The owner or operator of a facility where ignitable or reactive waste is stored or treated in a tank system must comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built upon as required in Tables 2–1 through 2–6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code" (1977 or 1981), (incorporated by reference, see § 260.11).

§ 264.199 Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials, must not be placed in the same tank system, unless § 264.17(b) is complied with.

(b) Hazardous waste must not be placed in an unwashed tank that previously held an incompatible waste or material, unless § 264.17(b) is complied with.

* * * * *

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

40 CFR Part 265 is amended as follows:

12. The Authority citation for Part 265 is revised to read as follows:

Authority: Secs. 1006, 2002(a), 3004, 3005, and 3015 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924, 6925, and 6935).

13. It is proposed to amend the Table of Contents and the heading of Part 265, Subpart J—Tanks by revising it to read:

* * * * *

Subpart J—Tank Systems

Sec.

265.190 Applicability.
265.191 Assessment and certification of tank system's integrity.
265.192 Response to and disposition of leaking or unfit-for-use tank systems.
265.193 Secondary containment.
265.194 General operating requirements.
265.195 Waste analysis and trial tests.
265.196 Inspections.
265.197 Closure and post-closure care.

Sec.
265.198 Special requirements for ignitable or reactive wastes.
265.199 Special requirements for incompatible wastes.
* * * * *

§ 265.13 [Amended].

14. It is proposed to amend § 265.13 General waste analysis requirements in paragraph (b)(6) by removing the reference to "265.193" and adding "265.195".

§ 265.15 [Amended]

15. It is proposed to amend § 265.15 General inspection requirements in paragraph (b)(4) by removing the reference to "265.194" and adding "265.196".

§ 265.73 [Amended]

16. It is proposed to amend § 265.73 Operating record requirements in paragraph (b)(3) by removing the reference to "265.193" and adding "265.195," and in paragraph (b)(6) by adding a reference to "265.194".

17. It is proposed to amend § 265.110 in Subpart G—Closure and post-closure by revising paragraph (b) to read:

§ 265.110 Applicability.
* * * * *

(b) Sections 265.117–265.120 (which concern post-closure) apply to the owners and operators of:

(1) All hazardous waste disposal facilities; and

(2) Tank systems to the extent that these sections are made applicable to such facilities in § 265.197.
* * * * *

18. It is proposed to amend § 265.140 in Subpart H—Financial requirements by revising paragraph (b) to read:

§ 265.140 Applicability.
* * * * *

(b) The requirements of §§ 265.144 and 265.145 and 265.146 apply only to owners and operators of:

(1) Disposal facilities; and

(2) Tank systems to the extent that these Sections are made applicable to such facilities in § 265.197.
* * * * *

19. It is proposed to amend the Subpart J—Tank Systems requirements by revising the Subpart as follows:

Subpart J—Tank Systems

§ 265.190 Applicability.

The regulations in this subpart apply to owners or operators of facilities that use tanks to treat or store hazardous waste, except as otherwise provided in § 265.1 of this part.

§ 265.191 Assessment and certification of tank system's integrity.

(a) For each tank system that does not have full secondary containment meeting the requirements of 265.193(b)–(d), the owner or operator must submit an assessment of the tank system to the Regional Administrator within 6 months of the effective date of these revisions to the regulations. Such assessment must include:

(1) A leak test of every underground tank to detect any leak equal to or greater than 0.05 gallon per hour;

(2) A leak test of all underground piping to detect a leak equal to or greater than 0.05 gallon per hour, or a pressure drop of 5 pounds per square inch per minute;

(3) For tank systems, other than underground tanks and underground piping that do not have full secondary containment meeting the requirements of § 265.193(b)–(d), an assessment of each tank system by a qualified registered professional engineer. This assessment must address cracks, leaks, corrosion, or erosion.

Note.—The practices described in the API Publication, *Guide for Inspection of Refinery Equipment*, Chapter XIII, "Atmospheric and Low-Pressure Storage Tanks," 4th edition, 1981, may be used as guidelines in conducting the assessment of a tank system.

(b) For those metal tank systems at which all or part of the tank system is in contact with the soil, the owner or operator must, within 1 year of the effective date of these revisions to the regulations, have a corrosion expert conduct a determination of factors affecting the potential for corrosion, including but not limited to:

(1) Soil moisture content;
(2) Soil pH;
(3) Soil sulfides level;
(4) Soil resistivity;
(5) Structure to soil potential;
(6) Influence of nearby underground metal structures (e.g., piping);
(7) Existence of stray electric current; and
(8) Existing corrosion-protection measures (i.e., coatings, cathodic protection).

§ 265.192 Response to and disposition of leaking or unfit-for-use tank systems.

(a) A tank system found to be leaking must be immediately removed from service and its owner or operator must satisfy the following requirements:

(1) The flow or addition of hazardous waste into the tank system must be immediately stopped;

(2) The remaining hazardous waste in the tank system or its secondary containment (if any) must be removed as quickly as possible and no later than 24 hours after detection of the leak so that no further release of hazardous waste is permitted to occur and inspection or repair of the tank system can be performed;

(3) Necessary steps must be immediately taken to contain any visible contamination resulting from a release from the tank system that has occurred or is occurring;

(4) The Regional Administrator must be notified within 24 hours after confirmation of the leak; and

(5) An estimation of the extent of release of hazardous waste or constituents of hazardous waste to the environment must be performed and reported to the Regional Administrator within 30 days of detection of a release.

Note.—The Regional Administrator may, on the basis of any information received that there is or has been releases of hazardous waste into the environment, issue an order under RCRA section 3008(h) requiring corrective action or such other response as deemed necessary to protect human health or the environment.

Note.—See § 265.15(c) for the requirements necessary to remedy a failure. Also, sections 103 (a) and (b) of CERCLA require the owner or operator to notify the National Response Center at (800) 424–8802 of the release of any "reportable quantity."

(b) Tank systems taken out of service in accordance with (a) of this Section or that are judged to present a hazard for continued use as hazardous waste storage or treatment units as a result of the assessment of § 265.191(a)(3) must be:

(1) Closed in accordance with the requirements of § 265.197, or

(2) *Repaired.* Repaired tank systems, prior to being returned to service for the management of hazardous waste, must be certified by a qualified registered professional engineer to be capable of storing or treating hazardous waste for the intended life of the tank system without permitting its release into the environment. This certification must be based upon assessments performed in accordance with §§ 265.191 (a) and (b) and must be submitted in writing to the Regional Administrator at least 7 days prior to the tank system's being returned to service, or

(3) *Replaced.* If an interim status tank system is replaced with another tank system, the replacement system is regarded as having interim status. Such tank systems must have full secondary containment in accordance with the requirements of §§ 265.193 (b) and (c) and must be certified by a qualified registered professional engineer to be capable of storing or treating hazardous waste for the intended life of the tank

system without permitting its release into the environment. This certification must be based upon an assessment performed in accordance with §§ 265.191 (a) and (b) and must be submitted to the Regional Administrator at least 7 days prior to bringing the tank system into use.

§ 265.193 Secondary containment.

(a) In order to minimize the release of hazardous waste or constituents of hazardous waste to the environment, all tanks and ancillary equipment must, within 1 year of the effective date of these revised regulations, be provided with full secondary containment that meets the requirements of paragraphs (b), (c), and (d) of this Section.

(b) Full secondary-containment systems must be:

(1) Designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil or ground water or to surface water at any time during the intended life of the tank system; and

(2) Capable of detecting and collecting any waste or leak and accumulated liquids until the collected material can be removed.

(c) To meet the requirements of paragraphs (b) and (d), secondary-containment systems must be at a minimum:

(1) Constructed of or lined with materials that are compatible with the waste(s) to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which it is exposed, climatic conditions, the stress of installation, and the stress of daily operation (including stresses from nearby vehicular traffic);

(2) Placed on a foundation or base capable of providing support to the secondary containment system and resistance to pressure gradients above and below the system owing to settlement, compression, or uplift;

(3) Provided with a leak-detection system that is designed or operated so that it will detect the presence of any release of hazardous waste or accumulated liquid in the secondary containment system within 24 hours of entry of the liquid into the containment system;

(4) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary-containment system in as timely a manner as is possible but no later than 24 hours after the detection of the release.

(5) Designed or operated to contain 110 percent of the design capacity of the largest tank within its boundary.

(6) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity in addition to that required in paragraph (c)(5) of this section to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25 year, 24 hour rain storm.

Note.—If the collected material is a hazardous waste under Part 261 of this chapter, it is subject to management as a hazardous waste in accordance with all applicable requirements of Parts 262 through 265 of this Chapter. If the collected material is discharged through a point source to waters of the United States, it is subject to the requirements of sections 307 and 402 of the Clean Water Act, as amended.

(d) Ancillary equipment must be provided with full secondary containment (e.g., trench, double-walled piping) that meets the requirements of paragraphs (b) and (c) of this section (except paragraph (c)(5)).

(e) As an alternative to complying with the full secondary containment requirements of paragraphs (a), (b), (c), and (d) of this section, the owner or operator or an existing tank system, except for those used to store or treat EPA Hazardous Waste Nos. FO20, FO21, FO22, FO23, FO26, and FO27 and replacement tank systems subject to the requirements of § 265.192(b)(3) may implement a groundwater monitoring program in accordance with the requirements of Subject F of this Part. Owners or operators who choose to implement a groundwater monitoring program in lieu of complying with the full secondary containment requirements of this Section must also install partial secondary containment consisting of a leak-proof base and diking that meet the requirements of §§ 264.193 (b) and (c) for any aboveground portion of the tank system.

(f) Except for tank systems used to store or treat EPA Hazardous Waste Nos. FO20, FO21, FO22, FO23, FO26, and FO27, the owner/operator may be exempted from all or part of the secondary containment requirements of this Section if the Regional Administrator finds, as a result of a demonstration by the owner or operator, that alternative design or operating practices, together with location characteristics, will prevent the migration of hazardous waste or constituents of hazardous waste into the ground water or surface water at any future time.

§ 265.194 General operating requirements.

(a) Hazardous wastes or treatment reagents must not be placed in a tank system if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life.

(b) Uncovered tanks must be operated to ensure at least 60 centimeters (2 feet) of freeboard, unless the tank is equipped with a secondary-containment structure (e.g., dike or trench) or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of the top 60 centimeters (2 feet) of the tank.

(c) Where hazardous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (e.g., a waste feed cutoff system or bypass system to a standby tank).

(d) All underground tank systems that do not have full secondary containment meeting the requirements of § 265.193 (b), (c), and (d) must be leak tested at least semiannually in accordance with the requirements of § 265.191(a) (1) or (2). The owner or operator must maintain a record of the results of the leak tests at the facility.

(e) Any tank system that is found to be leaking either by the leak test required in paragraph (d) or by any other means of leak detection must meet the requirements of § 265.192.

(f) All metal tanks and associated piping that are found to be susceptible to corrosive conditions resulting from the determination in 265.191(b) must be provided with the corrosion protection needed to ensure the integrity of the tank system for its intended life, consisting of one or more of the following:

(1) Corrosion-resistant materials of construction such as special alloys, fiberglass reinforced plastic, etc.;

(2) Corrosion-resistant coating such as epoxy, fiberglass, etc.;

(3) Cathodic protection (i.e., impressed current or sacrificial anodes); or

(4) Electrical isolation devices such as insulating joints, flanges, etc.

Note.—The practices described in the NACE standard, "Recommended Practice (PR–02–85)—Control of External Corrosion on Metallic Buried, partially Buried, or Submerged Liquid Storage Systems," and API Publication 1632, *Cathodic Protection of Underground Petroleum Tanks and Piping Systems*, may be used as guidelines in providing corrosion protection for tank systems.

§ 265.195 Waste analysis and trial tests.

In addition to performing the waste analysis required by § 265.13, the owner or operator must, whenever a tank system is to be used to treat chemically or store a hazardous waste that is substantially different from waste previously treated or stored in that tank system; or treat chemically a hazardous waste with a substantially different process than any previously used in that tank system:

(a) Conduct waste analyses and trial treatment or storage tests (e.g., bench scale or pilot plant scale tests); or

(b) Obtain written, documented information on similar waste under similar operating conditions to show that this proposed treatment or storage will meet all applicable requirements of § 265.194 (a) and (b).

Note. Section 265.13 requires the waste analysis plan to include anslyses needed to comply with §§ 265.198 and 265.199. Section 265.73 requires the owner or operator to place the results from each waste analysis and trial test, or the documented information, in the operating record of the facility.

§ 265.196 Inspections.

The owner or operator of a tank must conduct and document in the operating record of the facility an inspection of, where present:

(a) Discharge control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems), at least once each operating day, to ensure that it is in good working order;

(b) Data gathered from monitoring equipment (e.g., pressure and temperature gauges) and leak-detection equipment, at least once each operating day, to ensure that the tank system and leak-detection system are being operated according to their design;

(c) The aboveground portions of the tank system, if any, at least once each operating day, to detect corrosion or leaking of fixtures, joints, or seams; and

(d) The construction materials of, and the area immediately surrounding the externally accessible portion of the tank system and secondary-containment structures (e.g., dikes), at least weekly, to detect erosion or signs of leakage (e.g. wet spots, dead vegetation);

Note.—Section 265.15(c) requires the owner or operator to remedy any deterioration or malfunction he finds. Section 265.192 requires the owner or operator to notify the Regional Administrator within 24 hours of confirming a leak. Also, Sections 103 (a) and (b) of CERCLA require the owner or operator to notify the National Response Center at (800) 424–8802 of the release of any "reportable quantity."

(e) Cathodic protection systems to ensure that it is properly functioning according to, at a minimum, the following schedule:

(1) The operation and components of impressed current systems must be inspected at least monthly for such items as anode deterioration, rectifier malfunction, power interruption, and rectifier output;

(2) The anode output of a sacrificial anode system must be inspected at least semiannually; and

(3) The tank system to soil potential measurement must be conducted at least annually to ensure a minimum level of -0.85 volts.

§ 265.197 Closure and post-closure care.

(a) At closure of a tank system, the owner or operator must remove or decontaminate all hazardous waste residues, contaminated containment system components (liners, etc.), contaminated soil, and structures and equipment contaminated with waste, and manage them as hazardous waste unless § 261.3(d) of this chapter applies.

(b) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, soils, structures, and equipment as required in paragraph (a) of this Section, the owner or operator finds that not all contaminated soils can be practicably removed or decontaminated, he must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills. (§ 264.310).

(c) The closure plan for the tank system under § 265.112 must include a plan for complying with paragraph (a) of this section.

(d) The owner or operator of a tank system that does not comply with the full secondary requirements of §§ 265.193 (b) and (c) must: (i) Include in the closure plan for the tank system under § 265.112 both a plan for complying with paragraph (a) of this section and a contingent plan for complying with paragraph (b) of this section in case not all contaminated soil can be practicably removed at closure; and (ii) prepare a contingent post-closure plan under § 265.118 for complying with paragraph (b) of this section in case not all contaminated soil can practicably be removed at closure.

(e) The cost estimates for closure and post-closure care must be calculated in accordance with the requirements under §§ 265.142 and 265.144, respectively.

§ 265.198 Special requirements for ignitable or reactive wastes.

(a) Ignitable or reactive waste must not be placed in a tank system, unless:

(1) The waste is treated, rendered, or mixed before or immediately after placement in the tank system so that

(i) The resulting waste, mixture, or dissolved material no longer meets the definition of ignitable or reactive waste under §§ 261.21 or 261.23 of this Chapter, and

(ii) Section 265.17(b) is complied with; or

(2) The waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

(3) The tank system is used solely for emergencies.

(b) The owner or operator of a facility where ignitable or reactive waste is stored or treated in tanks must comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built upon as required in: Tables 2–1 through 2–6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code" (1977 or 1981), (incorporated by references, see § 260.11).

§ 265.199 Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials, must not be placed in the same tank system, unless § 265.17(b) is complied with.

(b) Hazardous waste must not be placed in an unwashed tank that previously held an incompatible waste or material, unless § 265.17(b) is complied with.

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

40 CFR Part 270 is amended as follows:

20. The authority citation for Part 270 is revised to read as follows:

Authority: Secs. 1006, 2002, 3005, 3007, 3019, and 7004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912, 6925, 6927, 6939, and 6974).

§ 270.14 [Amended]

21. It is proposed to amend § 270.14(b) General information requirements in paragraph (b)(5) by removing reference to "264.194" and adding "264.195"; and in paragraph (b)(7) by adding "264.196,"

prior to ". . . specific requirements in §§" and "264.227."

22. It is proposed to amend § 270.16, Specific Part B information requirements for tanks, by revising it to read:

§ 270.16 Specific Part B information requirements for tank systems.

Except as otherwise provided in § 264.190, owners and operators of facilities that use tanks to store or treat hazardous waste must provide the following additional information:

(a) A written assessment by a registered professional engineer as to the structural integrity and suitability for handling hazardous waste of each tank system, as required under § 264.191;

(b) Dimensions and capacity of the tank;

(c) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);

(d) A diagram of piping, instrumentation, and process flow for each tank system;

(e) A description of materials and equipment used to provide external corrosion protection, as required under § 264.191(c);

(f) For new tank systems, a detailed description of how the tank system(s) will be installed in compliance with § 264.192 (b), (c), and (d);

(g) Detailed plans and description of how the secondary-containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of § 264.193 (a), (b), (c), (d), and (e);

(h) For tank systems not in compliance with the secondary-containment requirements of § 264.193 (a) (b), (c) (d), and (e) the following:

(1) All plans, reports and other information required under § 270.14(c); and

(2) Detailed plans and description of the partial secondary-containment system for aboveground portions of the tank system(s), as required under § 264.193(f);

(i) For tank systems for which an exemption from the requirements of § 264.193 is sought (as provided by § 264.193(i)), detailed plans and engineering and hydrologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;

(j) Description of controls and practices to prevent spills and overflows, as required under § 264.194(b); and

(k) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of §§ 264.198 and 264.199.

§ 270.72 [Amended]

23. It is proposed to amend § 270.72(e), Changes during interim status, by adding the following sentence after the last sentence:

* * * Changes under this section do not include changes made solely for the purpose of complying with requirements of § 265.193 for tanks and ancillary equipment.

* * * * *

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Part III

Environmental Protection Agency

40 CFR Part 3

Employee Responsibilities and Conduct; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 3

[ERL-2834-5]

Employee Responsibilities and Conduct

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to revise regulations published February 29, 1984 (49 FR 7528). These revisions are necessary to reflect changes in the Agency's organization, to implement Rule 1.11 of the American Bar Association's 1983 Model Rules of Professional Conduct, to exempt tax-exempt bond funds from the prohibition of 18 U.S.C. 208(a), to make minor changes based on the Agency's experience in administering the earlier regulation and to clarify other provisions. The effect of these changes would be to allow employees who own tax-exempt bond funds to participate in matters affecting the financial interests of state and local governments and, in jurisdictions where Rule 1.11 of the American Bar Association's 1983 Model Rules of Professional Conduct applies, to bar former EPA attorneys from participating in court challenges to rules they helped to make. In addition, Deputy Ethics Officials would be authorized to require certain employees below GS/GM-13 to file confidential financial statements.

DATE: Written comments on this proposed rule must be submitted not later than July 26, 1985 to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Gerald H. Yamada, Acting General Counsel and Designated Agency Ethics Official (LE-130), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donnell L. Nantkes, Office of General Counsel (LE-132G), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460 (202) 382-4550.

SUPPLEMENTARY INFORMATION:

Background

EPA published a complete revision of its regulation regarding Employee Responsibilities and Conduct on February 29, 1984. Since then, parts of the revised regulation have become outdated as a result of changes in the Agency's organizational structure. For example, the list of officials in Appendix B to Subpart C who are subject to special requirements under Section 318(d) of the Clean Air Act is out-of-date. This list would be updated without substantive change. In addition, Section 3.302(b)(1) currently refers to the "Enforcement Counsel." This position has been replaced by an "Assistant Administrator for Enforcement and Compliance Monitoring."

Section 3.301(b)(1) would be revised to exempt tax-exempt bond funds from the prohibition of 18 U.S.C. 208(a). Such funds are analogous to the diversified mutual funds which are currently exempt.

Section 3.302 would be revised to authorize Ethics Officials to require certain employees below GM/GS-13 to file EPA Form 3120-1, Confidential Statement of Employment and Financial Interests, where their duties directly affect the financial interests of specific parties. This authority would apply only to employees who are contracting officers, project officers, inspectors, auditors or On-Scene Coordinator representatives. Such employees may have serious conflicts, and Ethics Officials should be able to monitor their financial and employment interests. Directing other employees below GM/GS-13 to file would continue to require the specific approval of the Office of Government Ethics.

Since in EPA's experience there is no basis for distinguishing outside employment involving holders of assistance agreements from such employment involving EPA contractors and subcontractors, the provisions regarding approval of outside employment would be expanded to include outside employment involving holders of assistance agreements.

The regulation would also implement Rule 1.11 of the American Bar Association's 1983 Model Rules of Professional Conduct by providing that, where the local jurisdiction has adopted Rule 1.11, former EPA attorneys are prohibited from participating in judicial challenges to rules which they helped to develop. This change would apply only where a complaint had not been filed by the effective date of this regulation or the date Rule 1.11 became effective in the jurisdiction, whichever occurred later.

The following proposed changes are intended to clarify existing provisions:

(1) The *Discussion* paragraph after the verbatim reprint of 18 U.S.C. 208 in Appendix A to Subpart A would be revised to make it clear that a vested right to funds in a State retirement system does not create a disqualification under the statute where the funds are invested in a separate trust account and are not controlled by the former employer.

(2) Paragraph (1) of Appendix A to Subpart C would be revised to make it clear that interests in mutual funds must be reported on EPA Form 3120-1. This is desirable because the exemption for mutual funds at § 3.301(b)(1) does not apply to funds which concentrate their investments in particular industries, and Ethics Officials should be able to judge whether mutual funds are within the exemption.

(3) Paragraph (3) of Appendix A to Subpart C would be revised to specify the information to be included in the Deputy Ethics Officials' annual certifications to the Designated Agency Ethics Official. This information would include: (1) The number of employees at GM/GS 13-15; (2) the number required to file; (3) the number of other employees required to file; (4) the number of remedial actions by type; (5) a certification that no employee who performs any "functions or duties" under the Surface Mining Control and Reclamation Act holds any prohibited interests; and (6) a certification that all required reports have been received, reviewed and signed and that any necessary remedial actions have been completed. This paragraph has also been reworded to clarify the procedures for submission of annual supplemental statements and (where employees interests have changed) submission of updates every four months.

(4) Paragraph (4) of Appendix A to Subpart C would be revised to make it clear that a Confidential Statement of Employment and Financial Interests may be disclosed to the Office of Inspector General and, on the written request of the chairman, to a committee or subcommittee of Congress. This provision is implicit in the February 29, 1984 regulations and would not change existing practice.

(5) Section 3.508(e) would be revised to make it clear that the requirement for approval of outside employment applies to employment involving firms regulated by the "EPA program Office or Regional Office" in which an employee serves.

(6) Appendix A to Subpart E would be revised to make it clear that requests for approval of outside employment are to be routed through employees' supervisors.

Executive Order 12291

Under Executive Order 12291, EPA is required to judge whether a regulation is "major" and therefore subject to the regulatory impact analysis requirements of the Order or whether it may follow other development procedures. We have

determined that this regulation is not "major" as it will not have a substantial impact on the economy. Consequently, the regulation is not subject to the impact analysis requirements of Executive Order 12291.

List of Subjects in 40 CFR Part 3

Conflicts of interest.

Dated: June 11, 1985.

Lee M. Thomas,

Administrator.

Therefore, 40 CFR Chapter I, Part 3 is proposed to be amended as follows:

PART 3—EMPLOYEE RESPONSIBILITIES AND CONDUCT

1. The authority citation for Part 3 continues to read as follows:

Authority: Executive Order 11222, 30 FR 6469; 3 CFR 1964–1965, p. 306; 5 CFR Parts 734, 735 and 737.

§ 3.105 [Redesignated as 3.106]

2. Redesignate § 3.105 as § 3.106 and add a new § 3.105 to read as follows:

§ 3.105 Post-employment restrictions affecting former EPA Attorneys.

This section applies where a jurisdiction in which a former EPA employee holds bar membership has adopted Rule 1.11 of the American Bar Association's Model Rules of Professional Conduct dated August, 1983, in particular Rule 1.11(d) (2) which provides that the term "matter" includes "any other matter covered by the conflict of interest rules of the appropriate government agency." In such cases, the term "matter" includes participation (in the form of drafting, providing advice or making recommendations) in the development of EPA regulations. Where a former EPA employee participated in the development of an EPA Regulation while employed by EPA, he or she may not represent or assist in representing any party or parties as an attorney in any judicial proceeding to contest the validity of the rule. However, this section applies only where the complaint was not filed before the effective date of this regulation or the date when Rule 1.11 became effective in the jurisdiction, whichever occurs later.

3. In Appendix A to Subpart A, add the following sentences at the end of the Discussion paragraphs within the discussion of 18 U.S.C. 207:

Appendix A to Subpart A—Conflict of Interest Statutes and Examples

* * * * *

Retirement plans maintained by a former employer may also amount to a financial interest, depending on the circumstances. For example, a fund managed by a former employer which includes company stock would create a personal financial interest, whereas a pension plan of a State government which is managed by a separate trustee and in which the former employee's rights have vested would not create a personal financial interest in the State government in which an EPA employee formerly served. Employees are encouraged to seek the advice of the Designated Agency Ethics Official regarding pension plans.

4. Revise paragraphs § 3.300 (a) and (b) (7) to read as follows:

§ 3.300 Prohibitions against acts affecting a personal financial interest.

(a) As discussed in Appendix A to Subpart A, Section 208(a) of Title 18, United States Code, prohibits an employee from knowingly participating in an EPA matter in which the employee, the employee's spouse, minor child, present or prospective employer, or organization in which the employee is an officer, has a financial interest.

(b) * * *

(7) Rulemaking and policy matters which have a direct and predictable effect on the financial interests of companies in which the employee owns stock or has an official or employment relationship. Examples are discussed in Appendix A to Subpart A.

5. Revise § 3.301 (b) (1) to read as follows:

§ 3.301 Waiver.

* * * * *

(b) * * *

(1) Mutual funds (including tax-exempt bond funds), except those which concentrate their investments in particular industries;

* * * * *

6. Revise § 3.302 (b) (1), redesignate paragraphs (c) (2) and (d) as paragraphs (d) and (e) respectively, add a new paragraph (c) (2) and revise redesignated paragraph (d) to read as follows:

§ 3.302 Financial Disclosure Reports and Confidential Statements of Employment and Financial Interests.

* * * * *

(b) * * *

(1) All employees who report to the General Counsel or the Assistant Administrator for Enforcement and Compliance Monitoring, and Regional Counsel employees;

(c) * * *

(2) Those in positions classified at GS–12 or below (or comparable levels under other pay systems) if their duties directly affect the financial interests of specific parties. Such positions are limited to contracting officers, project officers, inspectors, auditors and On-Scene Coordinator representatives.

(d) Other employees classified below the GM or GS–13 level (or comparable levels under other pay systems) who are in positions which otherwise meet the criteria of paragraph (c)(1) of this section may also be required to file, provided the Office of Government Ethics has approved in writing. Deputy Ethics Officials should consult with the Designated Agency Ethics Official in seeking such approval.

7. Revise paragraphs (1), (3) and (4) of Appendix A to Subpart C to read as follows:

Appendix A to Subpart C—Procedures for Filing Confidential Statements of Employment and Financial Interests

(1) *Submission*—Each employee required to submit a Confidential Statement of Employment and Financial Interests must submit the completed EPA Form 3120–1 within 30 days after entrance on duty or (where the position is not specifically listed in this Part) within 30 days after being notified of the requirement of file. Interests which are exempt from the prohibition of 18 U.S.C. 208(a) (except for interests in mutual funds) need not be reported. *See* § 3.301(b). The completed form is sent to the Deputy Ethics Official for the employee's organization. Headquarters employees in the Office of General Counsel and employees in the immediate Office of the Administrator submit their forms to the Designated Agency Ethics Official.

(2) * * *

(3) *Supplemental Statements*—For purposes of annual review, employees who are required to submit EPA Form 3120–1 must submit a new statement each July by no later than July 31, even if no changes have taken place during the year. Deputy Ethics Officials must notify such employees of this requirement and must complete review of the statements within 30 days after submission. By September 30 of each year, Deputy Ethics Officials must submit a statement to the designated Agency Ethics Official containing the following information: (1) The number of employees in their organizations at GM/GS 13–15; (2) the number required to file; (3) the number of other employees required to file under Section 3.302(c) or 3.302(d); (4) the number of remedial actions taken by type of action (i.e., recusals, waivers, divestitures, reassignments or blind trusts); (5) a certification that no employee who performs any "functions or duties" under the Surface Mining Control and Reclamation Act holds any prohibited interests (see § 3.305); and (6) a certification that all required reports have been received, reviewed and signed and that any necessary remedial actions have been taken.

In addition, whenever additions or changes have taken place, employees who are required to file must submit a supplemental statement by the end of the four month period in which the transactions occurred; that is, by November 30 and March 31. Deputy Ethics Officials must notify employees of this requirement during the months when these

updates are due, and must review and sign the updates within 30 days after submission. However, they need not provide any report to the Designated Agency Ethics Official regarding the updates.

(4) *Confidentiality*—EPA Form 3120-1 is confidential. No information from this form may be disclosed other than to the Designated Agency Ethics Official and the Alternate Agency Ethics Official, immediate staff assistants whom the responsible Deputy Ethics Official has specifically designated in writing, the Office of Inspector General, committees or subcommittees of Congress on the written request of the chairman, or as the Director of the Office of Government Ethics or the Administrator may determine for good cause.

(5) * * *

8. In Appendix B to Subpart C revise paragraph (2) under Coverage to read as follows:

Appendix B to Subpart C—Employees Subject to Special Requirements Under the Clean Air Act

(i) In the Office of the Administrator: Administrator, Deputy Administrator, and the Director of the Science Advisory Board.

(ii) Regional Administrators.

(iii) In the Office of General Counsel: General Counsel, Deputy General Counsel, Associate General Counsel for Air and Radiation.

(iv) In the Office of Enforcement and Compliance Monitoring: Assistant Administrator for Enforcement and Compliance Monitoring, Senior Enforcement Counsel, Associate Enforcement Counsel for Air Enforcement.

(v) In the Office of Policy, Planning and Evaluation: Assistant Administrator for Policy, Planning and Evaluation, Deputy Assistant Administrator for Policy, Planning and Evaluation, Director of the Office of Policy Analysis, Director of the Office of Standards and Regulations.

(vi) In the Office of Air and Radiation: Assistant Administrator for Air and Radiation, Deputy Assistant Administrator for Air and Radiation, Director of the Office of Policy Analysis and Review, Director of the Office of Program Development, Director of the Office of Air Quality Planning and Standards, Director of the Office of Mobile Sources, and Directors of the following Divisions: Control Programs Development, Emission Standards and Engineering, Monitoring and Data Analysis, Stationary Source Compliance, Strategies and Air Standards, Certification, Emission Control Technology, Engineering Operations, Field Operations and Support and Manufacturers Operations.

* * * * *

9. Revise § 3.501(a) to read as follows:

§ 3.501 Policy.

(a) Subject to the approval requirements of § 3.508, employees may engage in outside employment or other outside activity consistent with the standards of this Subpart.

* * * * *

10. Revise § 3.502(d) to read as follows:

§ 3.502 Guidelines and limitations.

* * * * *

(d) Involve work with any EPA contractor or subcontractor on an EPA project or work with any holder of an EPA assistance agreement or subagreement on an EPA project (unless the Designated Agency Ethics Official approves work on such acquisition or assistance agreement in writing) or would involve work for any person or organization in a position to gain advantage through the employee's exercise of official duties;

* * * * *

11. Revise § 3.507(a) to read as follows:

§ 3.507 Special conditions applicable to publishing.

* * * * *

(a) No income is derived from publishing materials which EPA makes available to the general public or which are available to the employee because of his or her official duties but are not available to the general public; and

* * * * *

12. Revise § 3.508(d) and (e) to read as follows:

§ 3.508 Administrative approval.

* * * * *

(d) Outside employment or other outside activity involving an EPA contractor or subcontractor or holder of an EPA assistance agreement or subagreement; and

(e) Employment by a firm which is regulated by the EPA program Office or Regional Office in which the employee serves.

* * * * *

13. In Appendix A to Subpart E revise paragraph 1 (Form and content of request) to read as follows:

Appendix A to Subpart E—Procedures for Permission To Engage in Outside Employment or Other Outside Activity

1. *Form and content of request*—A written request for administrative approval of outside employment must be addressed to the appropriate Deputy Ethics Official, or, in the immediate Office of the Administrator or Deputy Administrator, to the Designated Agency Ethics Official. The request must be sent through the employee's supervisors and must indicate:

* * * * *

§ 3.603 [Amended]

14. In § 3.603(a), lines 1 and 2, change "Statements of employment and financial interest" to "Statements of Employment and Financial Interests".

[FR Doc. 85-15325 Filed 6-25-85; 8:45 am]
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federal register

Wednesday
June 26, 1985

Part IV

Office of Management and Budget

Deferrals of Budget Authority; Notice

OFFICE OF MANAGEMENT AND BUDGET

Budget Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report three new deferrals of budget authority for 1985 totaling $278,500,000 and two revised deferrals now totaling $8,792,615. The deferrals affect programs in the Departments of Agriculture and Energy, the Agency for International Development, and the United States Information Agency.

The details of these deferrals are contained in the attached report.

Ronald Reagan

THE WHITE HOUSE
June 20, 1985.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

DEFERRAL #	ITEM	BUDGET AUTHORITY
	Funds Appropriated to the President	
	Agency for International Development	
D85-73	International disaster assistance.....	110,000
D85-74	Operating expenses, Agency for International Development.....	1,300
	Department of Agriculture	
D85-72	Expenses, Public Law 480, foreign assistance programs, Agriculture.....	167,200
	Department of Energy	
	Energy programs	
D85-30B	Energy conservation.....	6,324
	Other Independent Agencies	
	U.S. Information Agency	
D85-23A	Salaries and expenses, special foreign currency program.....	2,469
	Total, deferrals.....	287,293

SUMMARY OF SPECIAL MESSAGES FOR FY 1985
(in thousands of dollars)

	RESCISSIONS	DEFERRALS
Tenth special message:		
New items.....	---	278,500
Revisions to previous special messages.....	---	2,169
Effects of tenth special message.....	---	280,669
Amounts from previous special messages that are changed by this message (changes noted above).....	---	6,624
Subtotal, rescissions and deferrals.....	---	287,293
Amounts from previous special messages that are not changed by this message.....	1,843,315	14,865,999
Total amount proposed to date in all special messages.....	1,843,315	15,153,292

Deferral No: D85-73

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Funds Appropriated to the President
Bureau:
Agency for International Development
Appropriation title and symbol:
International Disaster Assistance, Executive
115/61035

OMB identification code:
11-1035-0-1-151
Grant program: [X] Yes [ ] No

Type of account or fund:
[ ] Annual
[X] Multiple-year 3/31/86 (expiration date)
[ ] No-Year

New budget authority..... $137,500,000
(P.L. 99-10)
Other budgetary resources -0-
Total budgetary resources 137,500,000

Amount to be deferred:
Part of year
Entire year $110,000,000

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other

Justification: The International Disaster Assistance program provides relief to foreign countries struck by disasters such as floods, hurricanes, earthquakes, and civil disturbances, and supports assistance in disaster preparedness and contingency planning. The African Famine Relief Supplemental, P.L. 99-10, makes available funds for disaster assistance activities provided that a comprehensive country-by-country plan is established to ensure effective use of funds. The Administration is required to ensure that aid is provided in a timely and efficient manner to those most in need. Consequently, $110 million is deferred until the Administrator of the Agency for International Development develops country-specific programs. To date, $17 million has been released for obligation. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

Deferral No: D85-74

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Funds Appropriated to the President
Bureau:
Agency for International Development
Appropriation title and symbol:
Operating expenses
115/61000

OMB identification code:
11-1000-0-1-151
Grant program:
[X] Yes [ ] No

Type of account or fund:
[ ] Annual
[X] Multiple-year 3/31/86 (expiration date)
[ ] No-Year

New budget authority..... $ 2,500,000
(P.L. 99-10)
Other budgetary resources 184,983,000
Total budgetary resources 187,483,000

Amount to be deferred:
Part of year
Entire year $ 1,300,000

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other

Justification: This account funds the direct hire costs of managing the Agency for International Development (AID) programs. The African Famine Relief Supplemental, P.L. 99-10, appropriated $137.5 million to the International Disaster Assistance account to provide emergency famine relief and recovery assistance to drought-plagued African countries. Of this amount, $2.5 million was transferred to AID's Operating expenses account to allow AID to provide for adequate planning, monitoring and supervision of this emergency assistance. Since the funds are available for obligation until March 31, 1986, AID intends to obligate approximately half the funds in 1985 and the other half in the first six months of 1986. Funds will be released as necessary. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

Deferral No: D85-72

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Agriculture
Bureau: Agricultural Stabilization and Conservation
Appropriation title and symbol:
Expenses - P.L. 480
125/62274

OMB identification code:
12-2274-0-1-151
Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[X] Multiple-year 9/30/86 (expiration date)
[ ] No-Year

New budget authority..... $384,000,000
(P.L. 99-10)
Other budgetary resources -0-
Total budgetary resources 384,000,000

Amount to be deferred:
Part of year $
Entire year 167,200,000

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other

Justification: Under Title II of the Agricultural Trade Development Act and Assistance Act of 1954, P.L. 480, agricultural commodities are donated to developing countries to meet famine relief needs and to combat malnutrition. U.S. and other donor emergency food deliveries for African Famine Relief are at unprecedented levels causing in some countries severe absorption and in-land transportation problems. P.L. 99-10, which provided supplemental funding to respond to the African famine, requires the AID Administrator to develop a comprehensive food distribution plan to assure effective use of commodities in 1985 and 1986. Funds are deferred pending development of such a plan for certain countries but will be released as necessary. To date, $20 million has been made available for obligation. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None. Approved country programs will not be affected since $216,800,000 of new budget authority is immediately available to satisfy urgent commodity, transport, and distribution requirements.

Outlay Effect: None

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D85-30A transmitted to Congress on March 22, 1985.

This revision to a deferral in the Department of Energy's Energy conservation account increases the previous deferral of $5,771,940 by $551,864 and results in a total deferral of $6,323,804. The additional funds are from recoveries of prior year obligations which will be used to partially offset the 1986 program funding level.

Deferral No: D85-30B*

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy Bureau: Energy Programs Appropriation title and symbol: Energy Conservation 1/ 89X0215	New budget authority..... $ 467,969,000 (P.L. 98-476) Other budgetary resources * 34,343,906 Total budgetary resources *502,312,906 Amount to be deferred: Part of year $ ____ Entire year * 6,323,804
OMB Identification code: 89-0215-0-1-272 Grant program: [X] Yes [ ] No	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: *This account funds a variety of energy research and development and grant programs. These programs provide support for buildings and community systems, industry, transportation, multi-sector research and state and local assistance. The $6,323,804 to be deferred is an increase of $551,864 over the previous deferral of $5,771,940. The additional deferral of $551,864 represents recoveries of prior year obligations for projects and activities which were completed or terminated during the months of January through March 1985. These funds, which are a result of management savings efforts, will be used to partially offset 1986 program funding levels. This action is taken pursuant to the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1984 (D84-41). It was also the subject of a rescission proposal (R85-87).

* Revised from a previous report.

D85-23A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of P.L. 93-344

This report updates Deferral No. D85-23 transmitted to the Congress on October 31, 1984.

This revision to a deferral in the U.S. Information Agency's Salaries and expenses (special foreign currency program) account increases the previous deferral of $852,000 by $1,616,811 and results in a total deferral of $2,468,811. These funds exceed the amount of funds needed for current program plans and will be reserved for use in later years.

Deferral No: D85-23A*

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: U.S. Information Agency Bureau:	New budget authority..... $ 8,000,000 (P.L. 98-411) Other budgetary resources * 4,812,213 Total budgetary resources *12,812,213
Appropriation title and symbol: Salaries and Expenses 1/ (Special Foreign Currency Program) 67X0205	Amount to be deferred: Part of year $ _____ Entire year * 2,468,811
OMB Identification code: 67-0205-1-154 Grant program: [ ] Yes [X] No	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other _____
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [X] No-Year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other _____

Justification: *The Appropriations Act for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for 1985 (P.L. 98-411) appropriated $8,000,000 to remain available until expended for the Salaries and expenses (special foreign currency program) account. The account is used for payment of USIA local program expenses in U.S.-owned foreign currencies in those countries where the Department of Treasury determines that the supply of local currency is in excess of the normal requirements of the U.S. Government. In 1985, the "excess currency" countries are Burma, Guinea, India, and Pakistan. As a result of exchange rate savings and recoveries of prior year obligations realized during 1985, the budgetary resources for this account exceed current budget estimates. The $1,616,811 along with $852,000 deferred earlier this year represent funds that will not be obligated in 1985 under current program plans. Accordingly, these funds are reserved for use in succeeding years. This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1984 (D85-341.

* Revised from a previous report.

[FR Doc. 85-15420 Filed 6-25-85; 8:45 am]

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federal register

Wednesday
June 26, 1985

Part V

General Services Administration

41 CFR Part 101-17

Government Work Space Management Reform; Temporary Regulation

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-17

[FPMR Temp. Reg. D-71]

Government Work Space Management Reform

AGENCY: Public Buildings Service, General Service Administration.

ACTION: Temporary Regulation.

SUMMARY: This regulation provides procedures for the development and maintenance of planning, information and reporting systems to ensure the efficient utilization of Federal work space and related furnishings. It implements Executive Order 12411, signed by the President on March 29, 1983. The General Services Administration's authority for issuing this regulation is contained in Executive order 12411 and in the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)).

DATES: Effective date: July 1, 1985.

Expiration date: June 30, 1987, unless sooner revised or superseded.

Comments due by: To ensure their consideration in drafting additional regulations and bulletins regarding work space management, comments should be received by GSA no later than August 26, 1985.

ADDRESS: Comments should be submitted to the General Services Administration, (PR), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: John H. Quigley, Director, Space Management Division, (202 566-1875).

SUPPLEMENTARY INFORMATION: GSA's authority for issuing this temporary regulation is contained in the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)) and in Executive Order 12411.

The purpose of this regulation is to refine the work space management reform program and resulting reporting requirements and to combine FPMR Temporary Regulation D-68, published March 8, 1983, which pertained only to GSA-controlled space, and FPMR Temporary Regulation D-70, published July 1, 1983, which pertained to all Federal work space.

The Federal work space management reform program reflects the President's announced goal to strengthen the management and improve the efficiency of the Federal Government. The program emphasizes the improvement in the utilization of Government work space and resultant cost savings. This regulation implements the Executive Order 12411 provisions that make agency heads responsible for achieving the goal of reducing Federal work space, used or held, to that amount which is essential to known agency missions.

Program requirements have been streamlined and simplified to minimize the burden of reporting and ensure efficiency while at the same time increasing effectiveness of the effort.

Prior Comments

The comments received in conjunction with FPMR Temporary Regulations D-68 and D-70 have been considered and reconciled with this document.

GSA has determined that this rule is not a major rule for the purpose of Executive Order 12291 of February 17, 1981 because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

Before issuing a final rule, GSA will make all necessary evaluations of economic effects, major costs to consumers or others, and significant adverse effects.

List of Subjects in 41 CFR Part 101-17

Administrative practices and procedures, Federal buildings and facilities, Government property management.

(Sec. 205(c), 63 Stat. 390 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter D to read as follows:

Federal Property Management Regulations

Temporary Regulation D-71

June 20, 1985.

To: Heads of Federal Agencies

Subject: Work Space Management Reform

1. *Purpose.* This regulation combines FPMR Temporary Regulations D-68 and D-70 and reflects uniform goals and procedures for both GSA-controlled space and for space controlled by other Federal agencies.

2. *Effective date.* This regulation is effective July 1, 1985.

3. *Expiration date.* This regulation expires June 30, 1987, unless sooner revised or superseded.

4. *Background.* Executive Order 12411, Government Work Space Management Reforms, was signed by the President on March 29, 1983. The order establishes Government-wide policies for the management of work space and related furnishings and vests the responsibility and accountability for ensuring that these policies are implemented in a timely and effective manner with agency heads. It also directs the General Services Administration (GSA) to conduct surveys, and establish procedures, guidelines and regulations to be followed by the agencies in developing work space planning, information and reporting systems. Permanent regulations will be issued by the Administrator of General Services following reconciliation of comments received on these Temporary Regulations.

5. *Revised procedures.* Attachment A contains revised regulations concerning agency-controlled space and GSA-controlled space. The significant changes incorporated in this regulation are:

(a) Each agency is responsible for establishing and implementing work space management plans and procedures. These plans must be consistent with the office utilization goals established by this regulation. GSA is responsible for providing technical guidance and coordination of agency efforts. GSA is also responsible for reviewing agency space plans and communicating agencies' progress to OMB for coordination of space plans with agency budgets.

(b) The work space programs for both agency-controlled and GSA-controlled space are incorporated into a single program with simplified reporting procedures.

(c) The goal for office space utilization is to achieve 135 square feet per person, or less by the end of Fiscal Year 1990. Agencies which choose to delay achievement of their reductions until the later years of the period should submit full justification for their actions, as part of the plan required by this regulation.

(d) A program is established to permit supplemental space allowances in office space for certain functions. Each agency is responsible for identifying the office space, by bureau or operational unit as appropriate, which may fall into the supplemental space category. For GSA-assigned space, supplemental space allowances will be developed in conjunction with GSA representatives and will be taken into account in overall

average utilization rate calculations. For agency-controlled space, allowances will be developed by the agency, following guidelines established for GSA-controlled space.

(e) Agency space requests shall include Standard Form 81A, Space Requirements Worksheets and Standard Form 81, Request for Space.

(f) All requests for GSA-controlled space will be processed in an expeditious manner taking into account the square footage requirement, the 135 square foot per person goal, community locational policies, local market conditions, available vacant space, furniture and equipment, professional space management principles, specific requirements for supplemental space and other factors.

(g) The head of each Federal agency will submit to GSA an annual work space management plan. Space inventories, personnel and utilization rates for GSA-controlled space and overall inventory totals will be projected for a 2-year period and reported annually with quarterly updates of significant changes.

(h) Location of space shall continue to be determined by agency mission needs, provisions of the Rural Development Act of 1971, and relevant Federal policies. GSA shall survey agencies and develop community specific location policies and plans based on agency mission, housing, and location requirements in a community. These community plans shall call for the location of agencies in leased and other federally controlled space at the most economical cost to the Government consistent with the agencies' mission.

6. *Comments.* Comments concerning the effect or impact of this regulation may be submitted to the General Services Administration, Office of Space Management (PR), Washington, DC 20405. Comments should be submitted within 60 days of publication of this regulation.

7. *Effect on other directives.* The provisions of Federal Property Management Regulations (FPMR) Temporary Regulations D–68 and D–70, Supplement 1 to D–68, Supplement 1 to D–70 and FPMR Bulletin D–195 are superseded by this regulation.

Dwight Ink,

Acting Administrator of General Services.

Attachment A

PART 101–17—GOVERNMENT WORK SPACE MANAGEMENT

§ 101–17.000 Scope of part.

This part prescribes policies and procedures for implementing Government-wide work space management reforms. The procedures of this part apply to all Federal work space.

§ 101–17.001 Authority.

This Part 101–17 implements Executive Order 12411, 48 FR 13391, March 31, 1983, applicable provisions of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, and Executive Order 12348.

§ 101–17.002 Basic policy.

(a) It is the responsibility of the heads of all Federal agencies to ensure that the provisions of Executive Order 12411 are implemented expeditiously and effectively. To accomplish this, Federal agencies shall maintain plans and programs to reduce the amount of work space, used or held, to that amount which is essential for known agency missions. Work space shall be acquired for use by Federal agencies only when such space is essential to existing or known and planned programs, and existing Government-controlled space held by other Federal agencies is not available to satisfy the need. GSA will issue guidance as required to aid agencies in developing goals for the improvement of Government-wide work space management. Agencies will be responsible for complying with plans and programs and meeting goals for improving work space management.

(b) Agency heads will continue to dispose of real property as presently provided by law and regulation. Generally, this requires reporting of excess property to the Administrator of General Services under FPMR 101–47. Agency heads shall notify the Administrator of all vacant work space that may be made available for the temporary use of other Federal agencies to the extent consistent with cost-effectiveness and with national defense requirements.

(c) Each agency head shall ensure that requests for space are consistent with agency plans and that the amount of office space is held to the minimum necessary to accomplish the tasks which must be performed. The objective is to achieve, by the end of Fiscal Year 1990, an average workstation space utilization rate of 135 square feet or less per person for both agency-controlled and GSA-controlled space. Agencies which choose to delay achievement of this goal until the later years of the period should submit full justification for their actions, as part of the plan required by this regulation. The reduction is defined as the difference between the current workstation space utilization rate and 135 square feet per person.

(d) Heads of Federal agencies shall establish programs to ensure that furnishings related to work space are held to the minimum necessary to accomplish mission requirements. Excess related furnishings shall be identified and reported to the Administrator of General Services in accordance with FPMR 101–43, Utilization of Personal Property, and other applicable laws and regulations.

(e) Each head of a Federal agency shall:

(1) Annually report the agency's total inventory of Government-wide work space, whether owned, leased, or otherwise controlled, to the Administrator of General Services, in order that the Administrator may publish a detailed listing of real property owned, leased, and otherwise controlled by all Federal agencies in accordance with FPMR 101–3.

(2) Establish and implement an agency-wide work space management plan in accordance with Section 101–17.009, Work Space Management Plans.

(3) Institute programs to ensure that agency actions for accomplishing management reforms for work space and related furnishings are in compliance with Executive Order 12411 and with this regulation.

(4) Maintain internal inventory records on furnishing related to work space in accordance with GAO thresholds.

(f) The Administrator of General Services shall:

(1) In accordance with Section 101–17.009 receive and review the work space management plans from all Federal agencies and communicate his findings to OMB for coordination of space plans with agency budgets.

(2) Establish procedures, guidelines and regulations to be followed by the agencies in developing the work space planning, information and reporting systems required by Executive Order 12411.

(3) Conduct surveys, space inspections and space utilization studies as prescribed by existing law and regulations. These shall include surveys to identify underutilized real property in accordance with FPMR 101–47.802 and Executive Order 12411.

§ 101–17.003 Definition of terms.

(a) "Agency-controlled space" means federally owned, leased, or controlled space acquired or used by Federal agencies under any authority other than the Federal Property and Administrative Services Act of 1949, as amended. It also includes space for which authorities for acquisition, use, or disposal have been

delegated to other agencies by GSA. It includes any space for which an agency does not pay GSA directly.

(b) "Acquisition of work space" means the process of obtaining work space by purchase, lease, donation, exchange, eminent domain, construction, or by any other means permissible by law.

(c) "Consistent with national defense requirements" means conforming with security considerations, as determined by the head of each Federal agency in consultation with the Administrator of General Services.

(d) "Conversion" is a technique for agencies to convert space under their control from "gross square footage" or "net square footage" to "occupiable square footage". In the case of office space, "conversion" is used to provide a cost-effective means for comparing utilization rates in agency-controlled space with utilization rates in GSA-controlled space.

(e) "Conversion factor" is the percentage determined by the agencies to convert space under their control from gross and net square footage to occupiable square feet. For office space, see Section 101–17.004 Utilization standards for work space.

(f) "Cost-effective" means justified under an economic analysis which evaluates alternatives in terms of time-adjusted expenses incurred by the Government.

(g) "Excess holdings" means any work space or related furnishings which are not essential to a Federal agency's existing or planned programs.

(h) "Federal agency" means any department, agency, or independent establishment in the Government, including any wholly-owned corporation.

(i) "Federally owned, leased, or controlled work space":

(1) "Federally owned" means work space, the title to which is vested, or will become vested pursuant to existing agreement, in the United States Government.

(2) "Federally leased" means work space for which the United States Government has a right of occupancy by virtue of having acquired a leasehold interest.

(3) "Federally controlled" means work space for which the United States Government has a right of occupancy by ownership, by lease, or by any other means, such as by contract, barter, license, easement, permit, requisition, or condemnation, whether or not paid for. This does not include space owned or leased by private sector entities performing work on Government contracts.

(j) "GSA-controlled space" means space assigned to the agency by GSA by authority of the Federal Property and Administrative Services Act of 1949, as amended, or by authority of any other statute. It includes any space for which an agency pays GSA directly.

(k) "Inventory" means a summary, survey, or itemized list of the space, assets, or materials under the control of a Federal agency.

(l) "Measurement of space":

(1) "Gross square footage" means all floor area (including all openings in floor slabs) measured to the outer surfaces of exterior or enclosing walls, and includes all floors, mezanines, halls, vestibules, stairwells, service and equipment rooms, penthouses, enclosed passages and walks, finished usable space with sloping ceilings (such as attic space) having 5 feet or more headroom, and appended covered shipping or receiving platforms at truck or railroad car height. Also included in gross floor area, but calculated on one-half of actual floor area, are covered open porches, passages and walks, with appended uncovered receiving and shipping platforms at truck or railroad car height. For the purposes of reporting under this regulation, this definition applies to agency controlled space only.

(2) "Net square footage" means that area defined as gross square footage, less space occupied by outside walls, interior partitions, stair towers, elevator shafts and machinery, toilets, basement and attic space unsuitable for use, permanent hallways and corridors, and rooms housing machinery or equipment for heating or ventilating and for furnishing light, power, and water supply for the building. For the purposes of reporting under this regulation, this definition applies to agency controlled space only.

(3) "Occupiable area" means that portion of the gross area which is available for use by an occupant's personnel or furnishings, including space which is available jointly to the various occupants of the buildings, such as auditoriums, health units, and snack bars. Occupiable area does not include space in the building which is devoted to its operations and maintenance, including craft shops, gear rooms, and building supply storage and issue rooms. Ceiling-high corridors solely serving a single space assignment are "occupiable." Occupiable area is computed by measuring from the occupant's side of ceiling-high corridor partitions or partitions enclosing mechanical, toilet, and/or custodial space to the inside finish of permanent exterior building walls or to the face of the convector if the convector occupies at least 50 percent of the length of the exterior wall. When computing occupiable area separated by partitions, measurements are taken from the center line of the partitions.

(m) "Personnel" means the peak number of persons to be housed in a given space assignment for whom a separate workstation must be provided. In addition to permanent Federal personnel, this includes temporaries, part time, seasonal, and contractual employees who cannot share existing workstations, and budgeted vacancies. Employees of other agencies and organizations who occupy separate workstations in the space assignment will also be included in the personnel total. Shift workers are to be considered as one person if the same workstation is used on every shift. In the case of office space, the peak number of persons for whom a separate workstation must be provided is used to calculate the utilization rate for office space.

(n) "Related furnishings" means items in work space which do not become fixed and part of the building, including such items as furniture, equipment, computers, telephones, etc.

(o) "Space" means space in buildings, and land incidental to the use thereof, which is under the custody and control of a Federal agency.

(p) "Workspace management analysis" means the process of employing recognized professional techniques to determine how efficiently an agency is utilizing its work space, and to verify that space is being used in accordance with this regulation. (The term "Analysis" means reconnaissance-type inspections as well as detailed studies.)

(q) "Special purpose space" means work space which is predominantly utilized for the special purpose of an agency and is not generally suitable for the use of other agencies. This includes but is not limited to schools, hospitals, mints, embassies, and consulates.

(r) "Supplemental space" means specific and discrete areas constructed as office space but used to meet needs outside the agency's ordinary office requirements, such as public-oriented or centralized reception, hearing or meeting facilities, service, inspection, distribution, storage or processing activities. Such space is most cost-effectively collocated with normal office space. Illustrations are contained in Section 101–17.600.

(s) "Supplemental space factor" means a percentage representing the square foot area of supplemental space divided by the total square foot area of all occupiable office space. For space

under their control, agencies shall develop factors compatible with their space measurement and classification systems. These factors will be applied to the agency's overall average office space utilization rate to develop a workstation space utilization-rate to determine agency progress in achieving the 135 square foot per person goal.

(t) "Used or held by a Federal agency" means occupied or used by that agency in the performance of its missions, whether or not paid for, regardless of whether such occupancy or use is obtained as a result of an assignment from GSA, as a result of a permit or other right-of-use obtained from another agency, or as a result of the agency's exercise of its own acquisition authority, whether granted by statute or obtained by delegation from GSA.

(u) "Utilization rate", as applied to office space, is an indicator of the efficiency with which space is used. It is calculated by dividing the total office square footage by the total number of personnel occupying that space. For purposes of measuring agency progress against the 135 square foot per person goal, a supplemental space factor will be applied to the agency utilization rate. See 101–17.003(m) for a definition of "personnel" and 101–17.003(s) for a definition of "supplemental space factor".

(v) "Vacant space available for temporary use" means work space which is:

(1) Not currently occupied or utilized to perform an agency's mission, but which is retained for future use, and

(2) In a condition presently suitable for occupancy, or capable of being made suitable at minimal expense, and

(3) Of a character and in a geographical location such that it would be suitable for use by a Federal agency other than the agency which presently controls it.

(w) "Work space" means federally-controlled space in buildings and structures (permanent, semi-permanent, or temporary) which provides an acceptable environment for the performance of agency mission requirements by employees or by other persons occupying it. It is further classified as "office space", "storage space" or "special space".

(1) "Office space", means space which provides an environment suitable in its present state for an office operation.

(2) "Storage space" means space generally consisting of concrete, wood block, or unfinished floors; bare block or brick interior walls; unfinished ceilings; and similar construction containing minimal lighting and heating. It includes attics, basements, sheds, parking structures and other unimproved building areas.

(3) "Special space" means space which has unique architectural features, requires the installation of special equipment or requires varying sums to construct, maintain and/or operate as compared to office and storage space.

(x) "Work space management plan" means an annual plan updated quarterly with significant changes which is submitted by Federal agencies, at the bureau level, showing a 2-year projection of space and personnel. The plan includes both GSA-controlled and agency-controlled space.

(y) "Workstation space" means specific areas used for an agency's ordinary office functions.

(z) "Workstation space factor" means the percentage of the total occupiable office space used for workstations. This factor plus the supplemental space factor always equal 100% or 1.00.

(aa) "Workstation space utilization rate" is the quotient of the workstation space and the personnel occupying that space.

§ 101–17.004 Utilization standards for work space.

Each agency shall achieve, by the end of Fiscal Year 1990, an overall agency-wide workstation space utilization rate equivalent to 135 occupiable square feet per person. Agency-controlled office space measured in terms of gross square footage will be converted to occupiable square footage by subtracting a factor of up to 25 percent. Agency-controlled office space measured in terms of net square footage will be converted to occupiable square footage by subtracting a factor of up to 10 percent. Agencies may apply a supplemental space factor to the 135 square feet per person goal in determining their progress in meeting the goal, as defined in 101–17.003(s) and (u). For all other agency-controlled space, the same conversion criteria will apply; however, no supplemental space factor will be considered. The factors applied for conversion and supplemental space for each agency shall be identified in the agency's work space management plan.

§ 101–17.005 Utilization standards for related furnishings.

(a) Heads of agencies shall submit to GSA copies of their standards and criteria for the utilization of related furnishings established in accordance with FPMR 101–25.302.

(b) It is the responsibility of all heads of agencies to ensure that standards and criteria for the use of related furnishings reflect a judicious use of public monies.

§ 101–17.006 Excess work space and related furnishings.

(a) This identification of unneeded work space held by Federal agencies will continue to be accomplished in accordance with the guidelines set forth in Section 101–47.8. Transfers of excess property between Government agencies will generally be effected in accordance with FPMR 101–47.2. Disposal of work space will be made in strict accordance with FPMR 101–47.3.

(b) Federal agencies with authority to identify, transfer, and dispose of work space, whether the authority is delegated to them by the Administrator of General Services or statute, may continue to exercise these authorities. Section 1(e) of Executive Order 12411 states that heads to all Federal executive agencies shall "consider, in making decisions concerning the use, acquisition of disposal of work space and related furnishings, the effects of its actions on costs incurred by other Federal agencies."

(c) All transfers and disposals, however done, will be reflected in agencies' reports and work space management plans to GSA.

(d) Excess related furnishings shall be identified in accordance with standards, criteria and procedures established by heads of Federal agencies. Excess related furnishings shall be reported to the Administrator in accordance with FPMR 101–43 and other applicable laws and regulations.

§ 101–17.007 Vacant space available for temporary use.

All vacant work space available for temporary use will be reported to the Administrator of General Services.

(a) Vacant work space in facilities held in the custody and control of Federal agencies other than GSA shall be reported to the Administrator by those agency heads in accordance with the provisions of FPMR 101–3 and of this Part 101–17. Notification of the space which will become available for temporary use will be made to the Administrator 120 days before the projected date of availability. Notification will include a description of the property, the amount of space, the dates of availability and an agency contact. Alternatively, agency heads may determine that vacant space is not suitable for temporary use by other Federal agencies.

(b) Agency heads shall ensure that vacant space available for temporary use is incorporated into Work Space Management Plans.

(c) In addition to reporting agency-controlled vacant space available for

temporary use, agency heads may identify other potential agency users and may assign such vacant space to them in accordance with applicable laws and regulations.

(d) The holding agency may determine that the space in question can be made available to potential users other than Federal agencies.

(e) To facilitate Federal agencies' cost-effective planning and utilization of work space, the Administrator shall maintain listings of vacant space available for temporary use. This listing will enable agencies requiring additional work space to ensure that such space is not available within the Federal inventory before acquiring it. It is the responsibility of all agency heads to determine, before acquiring work space, that existing vacant space used or held by other agencies is not available to satisfy the need.

§ 101-17.008 Inventories.

(a) Procedures and forms for use by executive agencies in preparing and submitting annual reports necessary for maintaining and publishing of Annual Real Property Inventories are contained in FPMR 101-3. Inventory reports shall cover those categories of property specified in FPMR 101-3. Reports shall be submitted by the agency responsible for the maintenance of real property records and accounts as prescribed in FPMR 101-3. Interagency report control number 0315-GSA-QU is assigned to this reporting requirement.

(b) It is the responsibility of the head of each executive agency to ensure that data submitted in accordance with FPMR 101-3 is consistent with the data required by Section 101-17.009.

(c) The Administrator of General Services shall consult with the heads of other agencies before issuing additional reporting requirements in order to ensure that such reports do not impose excessive cost burdens not contemplated by Executive Order 12411.

§ 101-17.009 Work space management plan.

(a) The head of each Federal agency shall submit to GSA an annual work space management plan. Separate bureau plans will be summarized into an agency-wide plan. The plans will contain current space holdings and a 2-year projection of requirements. This plan shall address all work space used or held, whether GSA-assigned or agency-controlled, wherever located. The report will be due no later than May 15 of each year with projections for the following two years in order to guide the preparation of agency budget submissions. The inventory levels used as the basis for projecting GSA-controlled space requirements should be consistent with inventory levels shown in the projected RENT Budget Report issued by GSA in April, except for the first report, as noted below.

Note.—The first report will be due 45 days after issuance of this regulation, with current year data for FY 85 and projections for Fiscal Year 1986 and 1987. See § 101-17.4902 for a sample of the required form.

(b) Each Plan shall contain a corresponding 2-year forecast of personnel and shall relate mission requirements to space presently used or held under request by the agency. Agency plans shall also indicate office utilization rates for present and projected work space and shall indicate the year in which 135 square feet per person in office space is expected to be achieved. These plans shall also state the supplemental space and conversion factors used by the agency for space under its control. The 2-year forecast was chosen to coincide with agency budget submissions.

(c) Each plan shall guide agencies in determining the amounts and type of space to be acquired through direct authority or requested from GSA. Agencies are responsible for ensuring compliance with plans in the acquisition of space.

(d) GSA shall review agency plans for consistency with Executive Order 12411, the provisions of this regulation including the 135 square foot goal, and other relevant factors and provide comments back to the agencies, as appropriate, within 60 days of plan submission. Agency plans shall be made available for review by OMB to ensure that funding is consistent with plans and projections. GSA shall report agencies' progress in improving the management of work space and related furnishings.

(e) GSA shall, upon agency request, provide technical assistance in the development and implementation of plans.

(f) This report has been cleared in accordance with FPMR 101-11.11 and assigned interagency report control number (IRCN) 0323-GSA-XX. In addition, this report supersedes IRCN 0307-GSA-AN, Annual Space Reduction Plan, and IRCN 0308-GSA-AN, Work Space Management Plan.

Subpart 101-17.1 Assignment and Utilization of GSA-Controlled Space

§ 101-17.100 Scope of part.

This part prescribes the policies and procedures for the assignment, utilization, and planning of space in buildings under the custody or control of GSA. The term "United States", as used in this subchapter, means the 50 States of the United States, the District of Columbia; and the Commonwealths, territories and possessions of the United States.

§ 101-17.101 Authority.

This part implements the applicable provisions of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended; the Act of July 1, 1898 (40 U.S.C. 285); the Act of August 27, 1935 (40 U.S.C. 304c); the Public Buildings Act of 1959, as amended (40 U.S.C. 601 et seq.); the Rural Development Act of 1972 (86 Stat. 674); Reorganization Plan No. 18 of 1950 (40 U.S.C. 490, note); the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2505); Executive Order 12072 of August 16, 1978 (43 FR 36869); the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201-4244); the Federal Urban Land-Use Act (40 U.S.C. 531-535); Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601); the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321); Executive Order 12411 of March 31, 1983 (48 FR 13391) and Executive Order 12348.

§ 101-17.102 Basic policy

(a) GSA and other Federal agencies shall take all reasonable measures to ensure the use of the absolute minimum space required to perform agency missions. The objective is to achieve by the end of Fiscal Year 1990, an average workstation space utilization rate of 135 square feet or less per person. Agencies which choose to delay achievement of this goal until the later years of the period should submit full justification for their actions, as part of the plan required by this regulation. The reduction is defined as the difference between the current workstation space utilization rate and 135 square feet per person. To accomplish this, each shall devise and implement a plan to improve the utilization of all space and shall indicate when this utilization rate accomplishment is to be realized. GSA shall issue guidance from time to time to assist agencies in improving space utilization. GSA and other Federal agencies shall work towards the most cost-effective solution practicable in each circumstance.

(b) Agency work space management plans shall be prepared in accordance with Section 101-17.009 and shall guide agencies in the acquisition of space including requests for space from GSA. Each agency head shall ensure that all space actions are consistent with the agency space plan.

(c) Agencies shall request the absolute minimum amount of space required for agency operations.

(d) Each agency shall determine the appropriate geographical area for its facilities. The agency shall define the broadest possible area compatible with its mission, employment considerations impacting productivity, recruitment and retention, and functional requirements to ensure maximum utilization of Government-controlled space and to obtain the maximum competitive area for space procurement. Agencies shall comply with all applicable statutes and Executive Orders, including those cited in 101–17.101. GSA shall develop community-specific location policies and plans based on a survey of agency mission, housing, location requirements, and employment considerations impacting productivity, recruitment and retention as defined by the agency. Locational policies shall be developed in accordance with Section 101–17.205. These plans shall also consider social, economic, environmental, historic preservation, and cultural effects upon communities, and shall support local development and revitalization objectives wherever feasible in meeting agency space needs.

(e) GSA will assign and reassign suitable space to Federal agencies and certain non-Federal organizations, and will issue criteria for the use of this space. To accomplish this, GSA will acquire and use federally-owned and leased space located in the United States. GSA will ensure that agency-established geographical areas are sufficiently broad to ensure adequate consideration of available Government-owned space and adequate potential for competitive offers from the market place. GSA will then determine the appropriate delineated area for space assignments consistent with the community specific locational policy.

(f) GSA and each agency will ensure the use of vacant available federally controlled space which meets minimum agency requirements before acquiring new space. Wherever possible, agencies shall occupy this space without alteration. When alterations are required, alterations which are essential for performance of agency missions or which improve the utilization rate shall be given priority. Alterations solely for decorative or nonessential purposes shall be avoided.

(g) GSA may delegate authority to agencies to acquire or lease their own workspace. Such space will be considered agency-controlled space and GSA will exercise oversight responsibility for agency actions under these delegations.

(h) GSA may require agencies to relinquish all or a portion of assigned space if this action is in the best interests of the Government and would not unreasonably interfere with the agency's performance of its mission. Under such forced relocations (as defined in 101–17.103(d)), GSA will be responsible for all expenses listed in 101–17.302, and for moving and alteration expenses.

(i) The finalization of a supplemental space factor as explained in 101–17.104 will supersede Space Allocation Standards for those agencies having such an agreement with GSA.

§ 101–17.103 Definition of terms.

(a) "Acceptance of space" means a certification from an agency that GSA may award a lease, make a commitment for initial alterations, and/or establish a date of occupancy.

(b) "Average utilization rate by bureau" means the utilization rate for a particular bureau, calculated on a nationwide basis taking into account the supplemental space factor defined in 101–17.003(s).

(c) "Delineated area" means the specific boundaries, as determined by GSA, within which space will be obtained to satisfy an agency space requirement. It is based upon the agency's geographic service area and mission, and employment considerations, the amount of available Government-owned space, and the potential or competitive offers from the marketplace.

(d) "Forced relocation" means any GSA-directed action, not initiated by agency request, that forces an agency to move from its present space assignment in whole or in part.

(e) "General purpose space" means space which is determined by GSA to be suitable for the general use of agencies. General purpose space is categorized as office, storage or special. The physical characteristics are the basis for determining the proper space category.

(f) "Initial space layout" means the specific placement of workstations, furniture and equipment for new space assignments. These initial services are provided by GSA at no cost to the agencies, upon agency request.

(g) "Joint-use space" means occupiable space, such as cafeterias, conference rooms, credit unions, and snack bars, which is available for common use by personnel of any Federal agency.

(h) "Non-Federal organizations" means organizations such as credit unions, commissions for the blind and handicapped, and organizations under the direct sponsorship of a Federal agency such as grantees and contractors.

(i) "Request for space" or "space request" means a written document upon which an agency provides GSA with the information necessary to assign space. A request for space shall be submitted on Standard Form 81 and Standard Form 81A. The request shall, at a minimum, contain descriptions of amount of space, personnel to be housed, geographic area, time period required and funding availability.

(j) "Space assigned by GSA" means space in buildings, and land incidental to its use, which is under the custody and control of GSA, space made available by USPS, or for which a permit for use has been issued to GSA by another agency. Examples of types of space assigned by GSA are listed in 101–17.601.

(k) "Space assignment" means an administrative action by GSA which authorizes the occupancy and use of space by a Federal agency or other eligible entity.

(l) "Space inspection" is a form of workspace management analysis as defined in 101–17.003(p) and means a reconnaissance-type evaluation of the manner in which assignments are being utilized to determine whether immediate or scheduled corrective action is warranted.

(m) "Space planning" means the process of using recognized professional techniques of space programming, planning, layout and interior design to determine the best location and the most efficient configuration for agency facilities.

(n) "Space requirements program" means the statement of an agency's space needs as expressed on Standard Form 81–A, Space Requirements Worksheet, and additional supporting documentation such as adjacency diagrams, and summarized on Standard Form 81, Request for Space.

(o) "Unique agency space" means any general purpose space which either consists of more than 50 percent special-type space not likely to be needed by another agency, or space of any type located in an area where it would be impractical to house another agency.

§ 101–17.104 Supplemental space allowances.

§ 101–17.104–1 Policy overview.

This policy is designed to identify and take into account those areas not used for typical office work in calculating utilization rates. Supplemental space will continue to be classified, measured, and billed to agencies as office space.

§ 101-17.104-2 Supplemental space allowance criteria.

Supplemental space allowances will be considered for agency functions which are:

(a) Housed in office space and accommodate non-workstation activities such as public reception areas, public inspection rooms, bid rooms, areas which accommodate files which by law must be maintained for public use, centralized mail, copy and storage operations and the like. (See § 101-17.600 for a list of supplemental areas), and

(b) Housed in space used more than 50 percent of the time for that purpose, and

(c) Housed in distinct and identifiable areas.

§ 101-17.104-3 Supplemental space allowance procedures.

(a) Each agency is responsibile, on behalf of its bureaus, for submitting to GSA narrative justifications for each allowance type. This narrative must explain what the function is and why it qualifies. One concise paragraph should suffice to explain each request.

(b) The request must contain the quantity of space nationwide and a certification from the agency head of the validity of the data and compliance with supplemental space criteria.

(c) GSA will develop with each agency the supplemental space factor for its bureaus or operational units as appropriate. For example, GSA and the Department of Transportation will develop supplemental factors for the Federal Railroad Administration, the Urban Mass Transportation Administration, etc. However, in cases where there is an operationally-distinct component or a bureau which requires its own supplemental space factor, a separate factor will be developed. For example, an agency with regional offices, district offices and field offices, all under the bureau, but with distinctly different operating characteristics, would require separate factors. This supplemental space factor will remain in effect until an agency mission change dictates that a new factor be developed.

(d) Supplemental space factors shall be finalized 9 months after the date of publication of this document. If no factor is finalized by this time, it may result in GSA assuming a zero percent factor for any agencies in this situation.

(e) The factor will be used for determining the amount of space to be provided to a given bureau or operational unit in reponse to a space request. All space requests which meet the 135 square feet goal for workstation space will be expeditiously processed by the GSA regional office.

Subpart 101-17.2—Assignment of Space

§ 101-17.200 Request for space.

(a) Federal agencies shall express their space needs by submitting Standard Form 81, Request for Space, Standard Form 81-A, Space Requirements Worksheet, and all other appropriate information, to the GSA regional office responsible for the geographic area in which the space is required. GSA will advise agencies when space requested has been determined to be unique agency space.

(b) When appropriate, GSA will request agencies to submit GSA Form 144, Net Space Requirements for Future Federal Buildings Construction.

(c) The need for space requested, the number of personnel housed, and the availability of funds for reimbursement to GSA shall be certified by an authorized official of the requesting agency of SF 81.

(d) Space requests for the U.S. Postal Service will be processed in accordance with the U.S. Postal Service-GSA agreement.

(e) GSA has the responsibility to assign space in an efficient manner using professional space management techniques. In making its determination of the amount of space assigned, each GSA regional office will consider the prudent, judicious and austere use of Government funds and resources and will base its decision on local market conditions, available vacant space, restrictions imposed by furniture and equipment and other factors.

(f) Each agency has the responsibility to request no more than the absolute minimum amount of space required to perform agency missions.

§ 101-17.201 Delegation of authority.

(a) GSA may delegate authority to acquire space by lease or procure parking accommodations when, in GSA's sole opinion, the delegation is in the best interests of the requesting agency and the Government. GSA will specify the terms and conditions of any delegation in writing at the time the delegation is made.

(b) Agencies acting under delegations shall make every reasonable effort to utilize existing Government-controlled facilities before acquiring new space. Agencies shall make inquiries to GSA regional offices regarding the availability of Government-controlled space and the agencies shall document their lease files if such space is not available. This documentation shall include the date of contact and the name and position of the GSA individual contacted.

(c) Agencies acting under delegation from GSA are required to comply with all relevant sections of this part 101-17.

§ 101-17.202 Action when existing space is not available.

(a) If no suitable federally controlled space is available, GSA will advise the requesting agency by returning a signed copy of the Standard Form 81, showing the action to be taken.

(b) When the agency has acquisition authority or has been delegated such authority by GSA, it may proceed to acquire the requested space consistent with existing laws and regulations. The signed copy of the Standard Form 81, if required, shall be attached to the leasing or related instrument made available to the General Accounting Office.

(c) At the agency's option, GSA may take necessary action to acquire space for agencies having acquisition authority when the latter so requests.

§ 101-17.203 Space for short-term use.

Agencies having a need for facilities for short-term use (such as conferences and meetings, judicial proceedings, and emergency situations) shall make every reasonable effort to utilize Government-owned or -leased facilities. If no suitable Government-controlled facilities are available, an agency may arrange for the use of privately owned facilities for a period not to exceed 120 days, provided that the agency has authority to contract for such facilities. Agencies shall make inquiries regarding availability to GSA regional offices and document such inquiries as outlined in § 101-17.201(b).

§ 101-17.204 Space requirements for ADP, office automation and telecommunication equipment.

Agencies requiring space for the installation of specialized equipment shall provide information as described in Subpart 101-17.602. This information should be forwarded to GSA at least six months in advance of equipment delivery so that space can be provided in a timely and efficient manner.

§ 101-17.205 Location of space.

(a) Federal use of space shall encourage growth and economic development and redevelopment in rural areas, consistent with the provisions of section 601(b) of the Rural Development Act of 1971 (86 Stat. 674).

(b) In locating facilities, after due consideration of the provisions of the Rural Development Act, agencies shall give first consideration to the

centralized business area and adjacent areas of similar character in the central city of Consolidated Metropolitan Statistical Areas as defined by the Department of Commerce. In addition, GSA will consult with appropriate Federal, State, regional and local government officials and consider their recommendations for and objections to a proposed selection site of space acquisition. GSA will advise local officials of the availability of data on GSA plans and programs, and will agree upon the exchange of planning information with local officials.

(c) The presence of the Federal Government in the National Capital Region (NCR) is such that the distribution of Federal installations will continue to be a major influence in the extent and character of development.

(1) These policies shall be applied in the GSA National Capital Region on the most cost-effective basis feasible, in conjunction with regional policies established by the National Capital Planning Commission and consistent with the general purposes of the National Capital Planning Act of 1959 (66 Stat. 781), as amended. These policies shall guide the development of strategic plans for the housing of Federal agencies within the National Capital Region.

(2) Solicitations for leased space shall give consideration to location at the lowest rental rate in the entire competitive market area of the National Capital Region consistent with the agency's requirements. Exceptions will be made for GSA clients with site specific requirements.

(d) Consistent with the policies cited in paragraphs (a), (b) and (c) above, alternative sources for meeting Federal space needs will consider the use of buildings of historic, architectural, or cultural significance within the meaning of section 105 of the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2507).

(e) Consistent with the policies cited in paragraphs (a), (b), (c) and (d) above, GSA shall survey agency mission, housing, and location requirements in a community and develop community specific location policies and plans. These plans shall call for the location of leased space and other interests in real property at the most economical cost possible to the Government consistent with the agencies' requirements.

§ 101-17.206 Application of socio-economic considerations.

When actions are proposed to accomplish the reassignment or utilization of space through the relocation of an existing major workforce, the impact on employees with low and moderate incomes and minority employees shall be considered. Under these circumstances, the requesting agency shall consult the Department of Housing and Urban Development in accordance with the memorandum of understanding between the Department of Housing and Urban Development and the General Services Administration.

§ 101-17.207 Reviews and appeals of space assignment actions.

§ 101-17.207-1 Formal review.

A request for a formal review of a space assignment or space acquisition action shall initially be submitted to the appropriate GSA regional office by the agency official authorized to sign the Standard Form 81, Request for Space. A request for a formal review shall be in writing and shall include all pertinent information and supporting documentation. The GSA Real Estate Division will verify the data, perform additional investigations, as necessary, and issue a decision.

§ 101-17.207-2 Initial appeal.

(a) Within 15 calendar days after receiving the decision, the regional agency head or his/her designee may submit an appeal of the decision to the Regional Administrator, GSA. In the appeal, the agency official shall state, in writing, the basis for the original request for formal review. Only information provided with that request will be considered. Any new or additional information introduced at this level will require that the appeal undergo another formal review.

(b) Within 15 calendar days, the Regional Administrator, GSA, will notify the agency of his/her decision. In cases requiring more detailed analysis than can be accomplished in 15 days, the Regional Administrator will notify the agency and establish a date on which his/her decision will be rendered.

§ 101-17.207-3 Further appeals.

Within 15 calendar days after the agency has been notified of the Regional Administrator's decision, a further appeal may be filed by the agency head with the Administrator of General Services. The Administrator will render the agency's decision within 15 calendar days of receipt of the appeal whenever possible; if additional time is required, the Administrator shall notify the agency of the date a decision will be made.

Subpart 101-17.3 Utilization of Space

§ 101-17.300 Responsibility of GSA.

GSA shall conduct workspace management analyses to promote and ensure efficient utilization, recapturing for release or reassignment any space the agencies do not justify as being required. The agency will be provided with a written summary of significant findings and recommendations, together with data concerning improvements which are planned by the agency, and those which are planned by GSA.

§ 101-17.301 Responsibility of agencies.

Agencies shall cooperate with GSA in the assignment and utilization of space. Agencies shall:

(a) Furnish information regarding the use of assigned space;

(b) Furnish data on personnel consistent with budget submissions to the Office of Management and Budget and with existing appropriations;

(c) Continually study and survey space occupied to ensure efficient and economical utilization of office space consistent with the minimum amount required to perform the agency mission; and

(d) Promptly report to GSA any space which is excess to their needs for assignment to other agencies.

§ 101-17.302 Procedures for agency-initiated relinquishment of space.

(a) An agency occupying GSA-controlled space shall notify the appropriate GSA regional office as soon as possible but at least 120 calendar days before vacating, whenever space is no longer needed. Notification shall be in writing, giving a description of the space and the estimated date of release.

(b) When a portion of space is relinquished, that space shall be consolidated, accessible, and readily assignable or marketable. Expenses required to alter the space shall be borne by the agency.

(c) The agency shall be responsible for space charges until the date of release specified in the notification, or until the date space is actually vacated, whichever occurs later. When an agency has not made timely notification to GSA, that agency shall be responsible for space charges for a period of 120 calendar days following the date of notification or until the space has been reassigned, whichever occurs first.

(d) When the space relinquished is unique agency space, the agency shall also be responsible for space charges for a period for 120 days following notification. Further, beyond 120 days

the agency shall be responsible for actual expenses incurred by GSA until:

(i) The space is assigned or otherwise disposed of by GSA, or

(ii) The expiration of the term specified on the most recent SF 81 applicable to the area in question, or

(iii) Notification by the Office of Management and Budget that agency responsibility is no longer required.

(e) Agencies who commit to occupy space but never occupy that space are responsible for space charges for 120 days from the day they notify GSA that the space is not required. If the space is unique agency space, the provisions of paragraph 101–17.302(d) shall apply.

(f) When an agency is responsible for the operation, maintenance, and protection of Government-owned space assigned by GSA, and the agency determines that this space is no longer needed, the agency shall so notify GSA at least six months before relinquishing the space. The operation, maintenance, and protection of the space shall continue to be the responsibility of the agency until the beginning of the next fiscal quarter following the end of the 6-month period.

Subpart 101–17.4 Space Programming, Planning, Layout and Design Services

§ 101–17.400 Initial layout services.

(a) Upon agency request, GSA will be responsible for providing space layouts for an initial space assignment or a forced relocation at no cost to the agency. The agency shall be responsible for preparation of a space requirements program, which shall be used as the basis for developing layouts. Wherever possible, the space program shall be prepared by professionally-trained agency staff. All requests shall be made to the appropriate GSA regional office.

(b) Agencies may also request other services in conjunction with initial layouts, such as space programming, master planning, macro-level programming and interior design. GSA will consult with the agency to determine the scope of assistance required. Such services will be provided on a reimbursable basis. Agencies must certify funding before performance of services.

§ 101–17.401 Other services.

Agencies may request space programming, planning, layout and interior design services for space actions other than initial layouts, such as reconfigurations, alterations, reductions, consolidations, relocations, as-built drawings and use of specialized furniture or equipment. Such services will be provided on a reimbursable basis. Agencies must certify funding before performance of services.

§ 101–17.402 Provision of services.

(a) No Federal agency occupying GSA-controlled space shall contract for these services without first consulting GSA. GSA may provide requested services through use of in-house professional staff or contracted professional space planning firms. GSA may require agencies to use existing GSA space planning contracts or new contracts negotiated by GSA if necessary to meet contractual commitments, avoid duplicated services and/or ensure cost-effectiveness.

(b) In the event that GSA is unable to provide requested services, either in-house or on contract, agencies may request a project waiver from the provisions of paragraph (a), above, to procure such services on their own authority. The request should be made to the GSA regional Office of Public Buildings and Real Property and should document the unavailability of GSA-provided services, the basic scope of service required, and the name, location, and size of the project. If the request is approved by the regional office, the agency may consult with GSA on contract scope, tasks, and deliverables.

(c) Regardless of the method used to provide these services, work performed on an agency's behalf in GSA-controlled space will be reviewed by GSA to ensure that no adverse impacts on technical sufficiency, mechanical or utility systems, structural integrity, fire and safety requirements, or assignment management considerations would result.

(d) Requests for services which apply across GSA regional boundaries, such as nationwide bureau-level space standards, shall be made to the GSA Central Office, Space Management Division.

(e) GSA will provide services on a reimbursable basis and on request for agency-controlled space as resources permit; however, priority must be given to requests from agencies occupying GSA-controlled space.

Subpart 101–17.5—Personnel Census

§ 101–17.500 Personnel census procedures.

GSA will conduct an annual personnel census to determine space efficiency. A computer printout will be distributed for each agency assignment by the GSA regional office. Verification of the data requires a local agency representative to provide the peak number of persons to be housed during the fiscal year. This printout is to be returned to the appropriate GSA regional office within 30 days of receipt.

Subpart 101–17.6—Exhibits

§ 101–17.600 Illustrations of support space.

The following list summarizes types of workstation-related and supplemental space. Regardless of specific language used here, supplemental space allowances must satisfy basic policy criteria stated above.

Support space	Workstation-related support space; include in "135" if:	Supplemental space; do not include in "135" if:
Type A: Reception, waiting areas	Waiting area with a few chairs or sofas, typically expected to be found outside private offices or within executive suites. For occasional outside visitors or routine staff	Consistently used for people outside of operational unit; usually for a significant volume of walk-in patron/clientele traffic which is there to be served by the agency and/or If associated with conference areas, must be waiting for scheduled meetings or appointments; events must occur more than 50% of the time that area is required.
Type B: Conference, hearing, meeting, interview areas	Meeting areas within or immediately adjacent to an office or work area. Occasional meeting area for 5 or 6 people Larger meeting areas used primarily by members of the operational unit without outside people attending.	More than 50% of the time people external to the operational unit site must use the area, and Room use is scheduled in advance and log of hours and users is maintained and Room is used primarily for outside consultants, contractors, public liaison groups, agency task forces, etc., for purposes external to the work of the group housed.
Type C: File areas	Ordinary clusters of file cabinets in active use Files housing internal materials or routine case papers accessible by internal staff in daily operations.	Centralized files of material primarily from outside the operational unit (e.g., job application, mortgage applications, etc.); official personnel files maintained by a central personnel office. All such files must be housed in a distinct area separated from other files.
Type D: Central storage areas	Supply areas for routine administrative supplies, materials, etc.	Must be separate; may be physically secured, with restricted access; centrally-stored supplies distributed by staff assigned to that function; may serve a large field work force; not more than one such space per operational unit site.

Support space	Workstation-related support space; include in "135" if:	Supplemental space; do not include in "135" if:
Type E:		
Processing areas	Space dedicated to personnel needs	In general, space dedicated to a machine or process.
Copier areas, reproduction and printing	Self-service copier areas for occasional use by all staff	Physically delineated area with staff dedicated to operate equipment.
Mail rooms	Small mail sorting areas for routine internal mail	Secured area where outside mail enters and exits the building (maximum of one per operational unit site); includes area for sorting, wrapping, carts, postage, and other major tasks.
Equipment-dominated area	An occasional microfiche machine, word processing areas; computer terminal used or assigned to employees as a routine part of their work.	Must be of a type where people support equipment, not vice-versa. Microfiche areas. Computer Terminal areas (if used by undedicated staff from outside one's own working group). Dry lab areas—i.e., no plumbing.
Type F: Reference/study areas:		
Libraries	Occasional alcove or wall in meeting room used for storage of small collections of books or magazines.	Physically secured area dedicated to functions normally associated with libraries. Libraries necessary to performance of official functions.
Public reference rooms	Use by public is incidental to use by staff	Dedicated exclusively or more than 50% to use by visitors, outside contractors, press, etc.; preferably a use mandated by law or statute.

§ 101-17.601 Supplemental definitions.

This section contains information to supplement the definitions of office, storage, and special space in § 101-17.003(w).

(a) The following are representative of uses of office space:

(1) General purpose office space;

(2) Private corridors;

(3) Conference rooms (without special equipment and additional heating, ventilation, and air-conditioning (HVAC));

(4) Training rooms (without special equipment and HVAC);

(5) Libraries (without extensive built-in stacks and special floor loading);

(6) Dry laboratories;

(7) Storage in office space;

(8) Credit unions (without fixed equipment);

(9) Lounges (other than toilet areas);

(10) Reception areas;

(11) Hearing rooms (without special equipment and HVAC);

(12) Telephone switchboard rooms;

(13) Mail rooms;

(14) Health rooms (without special equipment); and

(15) Table areas in cafeterias.

(b) All storage space will be classified under subsets of general storage area, inside parking area, or warehouse areas, as follows:

(1) General storage areas (storage in general purpose buildings) including:

(i) Basement,

(ii) Attics,

(iii) Closets (not finished to office standards),

(iv) Supply rooms (not finished to office standards);

(v) Storerooms (not finished to office standards), and

(vi) File rooms (not finished to office standards).

(2) Inside parking areas (garage space located in either a federally owned or leased building which is utilized for the parking of motor vehicles) including:

(i) Garages,

(ii) Parking area, and

(iii) Motor pool parking.

(3) Warehouse areas (entire buildings with warehouse features, including minor amounts of supporting office space).

(c) Special space is further defined as follows:

(1) Laboratory and clinic areas (space containing built-in equipment and utilities required for the qualitative or quantitative analysis of matter, experimentation, the processing of materials, and/or the physical welfare of employees or the public) including:

(i) Wet laboratories,

(ii) Clean laboratories,

(iii) Photographic laboratories,

(iv) Clinics,

(v) Health units and rooms (with special equipment), and

(vi) Private toilets.

(2) Food service areas (space in buildings devoted to the preparation and dispensing of foodstuffs) including:

(i) Cafeterias (kitchens, related storage and service areas),

(ii) Snack bars,

(iii) Mechanical vending areas, and

(iv) Private kitchens.

(3) Structurally changed areas (areas having architectural features differing from normal office or storage areas, such as sloped floors, high ceilings, and increased floor loading) including:

(i) Auditoriums,

(ii) Gymnasiums,

(iii) Libraries (with special stacks and floor loading),

(iv) Target ranges,

(v) Security vaults,

(vi) Courtrooms, and

(vii) U.S. Postal Service workrooms.

(4) Automatic data processing areas (areas having special features such as humidity and temperature control, raised flooring, and special wiring) including:

(i) Computer rooms, telecommunication and office automation facilities,

(ii) Support areas (with special flooring and wiring), and

(iii) Tape vaults.

Note.—See § 101-17.602.

(5) Conference and training areas (areas used for conferences, training, and hearing with special equipment and supplemental HVAC) including:

(i) Conference rooms,

(ii) Hearing rooms,

(iii) Training rooms,

(iv) Exhibit areas, and

(v) Small courtrooms (no structural changes).

(6) Light industrial areas including:

(i) Records storage (with humidity control);

(ii) Storage type space (with air-conditioning);

(iii) Printing plants;

(iv) Product classifying laboratories;

(v) Motor pool service areas;

(vi) Postal workrooms, swingrooms, locker rooms, mailing vestibules and platforms, and lock box lobbies;

(vii) Shops (other than PBS);

(viii) Loading docks and shipping platforms;

(ix) Canopy areas; and

(x) Vertical improved mail system areas.

(7) Quarters and residential housing areas (housing and quarters that do not logically fall in the other categories).

§ 101-17.602 Space for data processing, office automation and telecommunications equipment.

This section contains the information required on space requests for these specialized functions.

(a) Agencies requiring space for the installation of such equipment must provide the following information in addition to the requirements of section 101-17.204:

(1) Type of equipment (including make, model number, manufacturer, and number of units of each);

(2) Space and environmental requirements, including:

(i) Floor weight (lbs.);

(ii) Machine dimensions (width, depth, and height in inches);

(iii) Service clearance (front, rear, right and left sides);

(iv) Power in voltage and kv.-a. (starting loads and operating loads);

(v) Heat dissipation in B.T.U./hr. and air flow (c.f.m.); and

(vi) Need for raised floor, acoustic ceiling, and air-conditioning.

(3) Related requirements, such as storage space for supplies, tapes, and disks, work space, including desk and aisle space, and future expansion needs;

(4) Agency responsibility for funding; and

(5) Required occupancy date.

(b) The above information should be provided as separate supplemental data to Standard Form 81, Request for Space, and forwarded to the GSA regional office. The space requirements indicated on Standard Form 81 must include the space requirements for all components of Automated Data Processing, Office Automation and Telecommunication Equipment. The supplier should be consulted prior to establishing space needs in order to ascertain any specific or peculiar space requirements of the equipment involved.

(c) It is essential that this information regarding the requirement for such space be transmitted to GSA as far as possible in advance of delivery of equipment so that space can be provided in timely and economical manner.

Subpart 101-17.49—Forms

§ 101-17.4900 Scope of subpart.

This subpart contains information on forms that pertain to the assignment and utilization of space and instructions in their use.

§ 101-17.4901 Standard forms.

(a) Forms referenced to this Section 101-17.4901 are Government standard forms. The subsection numbers in this section correspond with the standard form numbers.

(b) Supplies of standard forms can be obtained from the nearest GSA supply distribution facility.

§ 101-17.4902 GSA forms.

(a) Forms referenced to this § 101-17.4902 are GSA forms. The subsection numbers in this section correspond to the GSA form number.

(b) Agencies obtain their initial supply of GSA forms from General Services Administration, Union and Franklin Streets Annex, Building 11, Alexandria, VA 22314. Agency field offices should submit all future requirements to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (ATRR), Washington, DC 20405.

BILLING CODE 6820-23-M

WORK SPACE MANAGEMENT PLAN
(SEE REVERSE FOR INSTRUCTIONS AND EXPLANATION OF TERMS)

TYPE: ☐ ORIGINAL ☐ UPDATE | DATE | INTERAGENCY REPORT CONTROL NO.: 0323-GSA-XX

CONTACT NAME | TELEPHONE NUMBER

DEPARTMENT/AGENCY/BUREAU:

REPORTING PERIOD AND SPACE CATEGORY			SPACE INVENTORY						SUPPLEMENTAL SPACE ANALYSIS			
			TOTAL SPACE (SQ. FT.)	NON-OFFICE AREA		OFFICE SPACE			SUPPLEMENTAL SPACE FACTOR	WORKSTATION		
				SQUARE FEET AREA	PERSONNEL	TOTAL SQ. FT. AREA	PERSONNEL	OVERALL OFFICE U/R		SPACE FACTOR	SPACE U.R.	SPACE U.R. MINUS 135
CURRENT YEAR	GSA-CONTROLLED SPACE ▶											
	AGENCY CONTROLLED	OWNED										
		LEASED										
		SUBTOTAL ▶										
	CURRENT YEAR TOTAL ▶											
SECOND YEAR	GSA-CONTROLLED SPACE ▶											
	AGENCY CONTROLLED	OWNED										
		LEASED										
		SUBTOTAL ▶										
	SECOND YEAR TOTAL ▶											
THIRD YEAR	GSA-CONTROLLED SPACE ▶											
	AGENCY CONTROLLED	OWNED										
		LEASED										
		SUBTOTAL ▶										
	THIRD YEAR TOTAL ▶											

FISCAL YEAR YOUR DEPARTMENT/AGENCY EXPECTS TO ACHIEVE 135 SQ. FT. PER PERSON

CONVERSION FACTOR USED TO CONVERT AGENCY-CONTROLLED SQUARE FOOTAGE TO OCCUPIABLE

GSA-CONTROLLED SPACE:	AGENCY-CONTROLLED SPACE:	FROM GROSS SQUARE FEET: %	FROM NET SQUARE FEET: %

GENERAL SERVICES ADMINISTRATION

GSA FORM 3530 (6-85)

FPMR Temp. Reg. D-71
Attachment A

EXPLANATION OF TERMS AND INSTRUCTIONS FOR COMPLETING GSA FORM 3530,
WORK SPACE MANAGEMENT PLAN (41 CFR 101-17.4902)

Reports are to be submitted annually by bureau, along with a summary report for the entire agency. This report covers projected space usage for two years after the current year. The report will be due no later than May 15 of each year with projections for the following two years. The first report will be due 45 days after the issuance of this regulation, using current data for FY 85 and projections for FY 86 and FY 87.

GSA-controlled Space (current year). GSA-controlled space data will be furnished by GSA from current assignment records, and measured in occupiable square feet. Significant discrepancies in the GSA-furnished data shall be reconciled between GSA and the agency.

Agency-controlled Subtotal is the sum of agency-controlled owned and agency-controlled leased space.

Total is the sum of the GSA-controlled space and the agency-controlled subtotal.

Total Space (Agency controlled space). Total space is the sum of all space under the responsibility of the reporting agency/bureau, including office and non-office areas, but excluding outside parking space. It is to be reported in occupiable square footage separately for owned and leased space. Occupiable square footage is determined by deducting a maximum of 25 percent from gross square footage or a maximum of 10 percent from net square footage. (See Section 101-17.003 (l) and 101-17.004). The conversion factor is to be reported at the bottom of this form.

Non-office Space - Square Foot Area, Personnel (GSA-controlled). Non-office space in GSA-controlled buildings consists of storage and special space as defined in 101-17.003(w)(2) and (3). Outside parking areas are not included. Personnel is to be reported in accordance with 101-17.003(m).

Non-office Space - Square Foot Area, Personnel (Agency controlled). Non-office space in agency controlled buildings consists of space whose predominant use is not for ordinary office functions. It is reported in occupiable square footage, separately for owned and leased, in the same method as described above. Personnel is to be reported in accordance with 101-17.003(m).

Office Space - Total Square Foot Area (Agency controlled and GSA-controlled space). Office space is to be reported in occupiable square footage, as described above.

Overall Utilization Rate, Office Space (Agency Controlled Space and GSA-controlled Space). The overall utilization rate is calculated for each of these space categories subtotals and the total by dividing the square feet of office space by the corresponding office personnel.

Supplemental Space Factor. This factor represents office space outside an agency's ordinary office requirements and is defined in 101-17.003(s).

Supplemental space factors for GSA-controlled space will not be included on this first report. Supplemental space factors in agency controlled space are optional on this first report.

Workstation Space Factor. This factor represents space use for general office purposes, and is calculated by subtracting the supplemental space factor from 1.00, e.g., a supplemental space factor of .23 results in a workstation space factor of .77.

Workstation Space Utilization Rate is calculated by multiplying the overall office utilization rate by the workstation space factor.

Workstation Space Utilization Rate Minus 135. Subtract 135 from the workstation space utilization rate in the adjacent column.

Fiscal year your Department/Agency Expects to Achieve 135 sq. ft. per person: This is to be reported separately for GSA-controlled space and agency-controlled space. It represents the year in which an average of 135 square feet per person is reached for workstation office space.

REQUEST FOR SPACE
(See instructions on back)

1. DATE

2. AGENCY REQUEST NUMBER

3. SPACE REQUESTED IS FOR ☐ INITIAL REQUEST ☐ SUPPLEMENTAL REQUEST ☐ REPLACEMENT OF EXISTING SPACE

4. SPACE REQUIRED AT (City & State)

5. TO
General Services Administration
Public Buildings Service
No., street
City, State & ZIP code

6. FROM
Agency
No., street
City, State & ZIP code

7. SPACE TO BE OCCUPIED BY (Bureau, Division, Branch, etc.)

8. OFFICE TO BE BILLED (Address only)
No., street
City, State & ZIP code

9. OFFICE TO RECEIVE SPACE ASSIGNMENT RECORD (Address only)
No., street
City, State & ZIP code

10. TERM OF OCCUPANCY

FROM	TO	NO. YEARS FIRM LEASE
Mo. & Year	Mo. & Year	

11. SPACE REQUIREMENTS

TYPE	LINE	CATEGORY		WORK STATION ALLOWANCE (c) BY GRADE	WORK STATION ALLOWANCE (c) BY JOB TITLE	ON BOARD PERSONNEL (b)	NUMBER OF BUDGETED PERSONNEL TO BE HOUSED IN SPACE REQUESTED (c)	TOTAL SQUARE FEET (col. b × col. c) (d)	FOR GSA USE ONLY (e)
OFFICE TYPE SPACE	1	GS 1–6	Supvr. & Nonsupvr.	60					
	2	GS 7	Nonsupervisory (Add 25 sq. ft. for supervisory positions)	75					
	3	GS 8		75					
	4	GS 9		75					
	5	GS 10		75					
	6	GS 11		75					
	7	GS 12–13	Supervisory	150					
	8		Nonsupervisory	100					
	9	GS 14–15	Supervisory	225					
	10		Nonsupervisory	150					
	11	GS 16, 17, 18		300					
	12	Other (Explain in item 14)							
	13	**SUBTOTAL (Lines 1 through 12)**							
STORAGE	14	General storage							
	15	Inside parking (No. of spaces _____ X 300 sq. ft.)							
	16	Warehouse area							
	17	**SUBTOTAL (Lines 14 through 16)**							
SPECIAL	18	Laboratory and clinic area							
	19	Food service area							
	20	Structurally changed area							
	21	Automatic data processing area							
	22	Conference-training area							
	23	Light industrial area							
	24	Quarters and residential housing area							
	25	**SUBTOTAL (Lines 18 through 24)**							
	26	**TOTAL (Lines 13, 17, and 25)**							
	27	Outside parking (Number of spaces _____)							
	28	Open land (Acres)							

12. ARE FUNDS AVAILABLE FOR REIMBURSEMENT OF RENT AND OTHER ASSOCIATED COSTS? ☐ YES ☐ NO If yes, show appropriation number ▶

13. EXTENDED OPERATIONAL REQUIREMENTS (See instruction 3 and explain in item 14.)

14. SPECIAL REQUIREMENTS (Furnish details) AND/OR REMARKS

(Continue on reverse)

15. CERTIFICATION BY AUTHORIZED REQUESTING OFFICIAL

I certify to the validity of the data presented herein and that the space requested is necessary for the proper functioning of the above named activity. Also, that request is in compliance with FPMR 101–17.103, 101–18.107, 101–19.101.

SIGNATURE | DATE

TYPED NAME AND TITLE | TELEPHONE NO.

FOR GSA USE ONLY

16. ACTION BY AUTHORIZED GSA OFFICIAL

☐ Government controlled space to be assigned.
☐ No government controlled space available and leasing action will be required.
☐ Agency authorized to acquire space under its authority.

SIGNATURE AND ORGANIZATION OFFICE SYMBOL | DATE

PBS CONTROL NUMBER | REGION NO. | DATE REQUEST RECEIVED

81-106

STANDARD FORM 81, Rev. 3-74
Prescribed by GSA, FPMR (41 CFR) 101-17.101

INSTRUCTIONS

1. Submission of Requests for Space.
   a. This form should be submitted in triplicate to the General Services Administration Regional Office having jurisdiction for the geographical area in which the space requested (item 4) is located.
   b. Agency field components requesting space should submit this form only if the field component has been delegated authority to do so and to obligate funds for reimbursement to GSA for costs of rental, moving, alterations, outlets, etc. Otherwise, the request must be coordinated with and approval obtained from the proper agency office having such authority.
   c. Approximately 180 days will be required to complete transactions and have space ready for occupancy if leased space is to be acquired.
2. Official Vehicle Parking.
   When parking is required for assigned official vehicles, indicate in item 14 the type and number of vehicles for which space must be provided.
3. Extended Operational Requirements.
   If there is a requirement for access to and/or for services in the space requested during evening hours or over weekends, it should be noted and fully explained in item 14. An estimate of the number of hours per day and days per month that access and services will be required should be included.
4. Specific Location.
   If a particular location within the community indicated in item 4 is critical to agency operations, it should be noted and fully explained in item 14.
5. Work Station Allowance.
   Under column 11(a), Job Title enter square feet allowed for grade in Occupancy Guide or in other GSA Standards. Indicate in item 14 the percent of male to female personnel.
6. For futher classification of office, storage and special space, see FPMR 101–17.003–2a.

SPACE ALLOWANCE FOR COMMON FUNCTIONS

Function	Allowance
Conference and meeting rooms	Twenty square feet per person based on 50 percent time/use basis and on the average number of persons in attendance.
Classrooms and training rooms	Desk/arm chair at 10 square feet per person. Desk and chair at 40 square feet per person.
Reception areas	Based on average visitor load at 10 square feet per person.
Exhibit areas, internal duplicating, libraries, mail rooms, and supply rooms.	Actual measurement of equipment plus circulation.

Item 14, continued:

STANDARD FORM 81 BACK (REV. 5-74)

FPMR Temp. Reg. D-71
Attachment A

June 20, 1985

GENERAL SERVICES ADMINISTRATION
PUBLIC BUILDINGS SERVICE

NET SPACE REQUIREMENTS FOR FUTURE FEDERAL BUILDING CONSTRUCTION

CITY AND STATE	CONTEMPLATED BUILDING TITLE

PART I — NET SPACE NOW OCCUPIED

A. IN GOVERNMENT-OWNED BUILDINGS

BUILDING NAME	(1)		(2)		(3)	
TYPE OF SPACE	AREA (SQ. FT.)	NO. OF PERSONNEL	AREA (SQ. FT.)	NO. OF PERSONNEL	AREA (SQ. FT.)	NO. OF PERSONNEL
OFFICE						
FILE						
STORAGE						
OTHER						
TOTALS						

B. IN LEASED BUILDINGS

BUILDING NAME	(1)		(2)		(3)	
ADDRESS						
TYPE OF SPACE	AREA (SQ. FT.)	NO. OF PERSONNEL	AREA (SQ. FT.)	NO. OF PERSONNEL	AREA (SQ. FT.)	NO. OF PERSONNEL
OFFICE						
FILE						
STORAGE						
OTHER						
TOTALS						
ANNUAL RENTAL						
LEASE EXPIRES						
NOTICE TO CANCEL						
PROBABLE OCCUPANCY						

PART II — NET SPACE REQUIREMENTS (Including A and B of PART I)

PROPOSED USE OF ROOMS *(List according to plan arrangement and continuity desired)*	NUMBER OF ROOMS	AREA OF EACH ROOM	TOTAL SPACE REQUIRED	PERSONNEL MALE	PERSONNEL FEMALE	SQ. FT. PER PERSON	THIS COLUMN FOR GSA USE
TOTALS							

DEPARTMENT OR AGENCY	BUREAU OR DIVISION	
APPROVED BY	TITLE	DATE
(Signature)		

Regents Control Symbol PBS-21

(See Instructions on reverse)

GSA FORM 144
OCTOBER 1955

June 20, 1985

FPMR Temp. Reg. D-71
Attachment A

INSTRUCTIONS

This report is to provide information as a basis for the design of the Federal building specified on the face of this form.

Additional copies of the form, or attachments on plain paper with appropriate headings, should be used if necessary to furnish complete information. If space is not desired in the proposed building, enter a statement to that effect at the bottom of Part II of this form.

PART I

A and B: NET SPACE NOW OCCUPIED. Enter complete information for each kind of occupancy. Use a separate column for each building. Enter the building name in the space provided, and give the aggregate of each kind of space occupied in the building. The dimensions for computing net space are taken from the inside faces of exterior walls to the faces of corridor walls, and from center to center of cross partitions (or the faces of partitions separating net assignable areas from other areas).

PART II

NET SPACE REQUIREMENTS. The entries here should indicate the net space requirements based on staffing permitted by current appropriations or authorizations. Space allowances for additional staffing based on future programs will be allowed by GSA only if such programs have Bureau of the Budget approval. Space ultimately will be assigned in accordance with GSA Reg. 2-II, with due regard to the allowances set forth in section 502.00 of that Chapter. Agencies should be guided accordingly in stating estimated net space requirements. Exclude estimated space requirements for temporary or emergency expansion.

PROPOSED USE OF ROOMS: List the types of occupants such as "Executives", "Junior Executives", "Secretaries", and "Clerks" in the order of planning arrangement, or in the order of preferred arrangement if no plan has been made. If any of the following types of rooms or facilities are needed, give the additional information required for each:

Conference or meeting room	- Number of persons to be seated.
Counters	- Length and location.
File Room	- Number and type (letter, legal or special) of file cases.
Laboratory	- Quantity and dimensions of fixed equipment.
Library	- Number of volumes and readers.
Service platform and yard	- Number and size of vehicles and extent of shipping activities.
Storage and supply room	- Quantity and type of material stored and extent of activity.
Vaults	- Size and purpose.

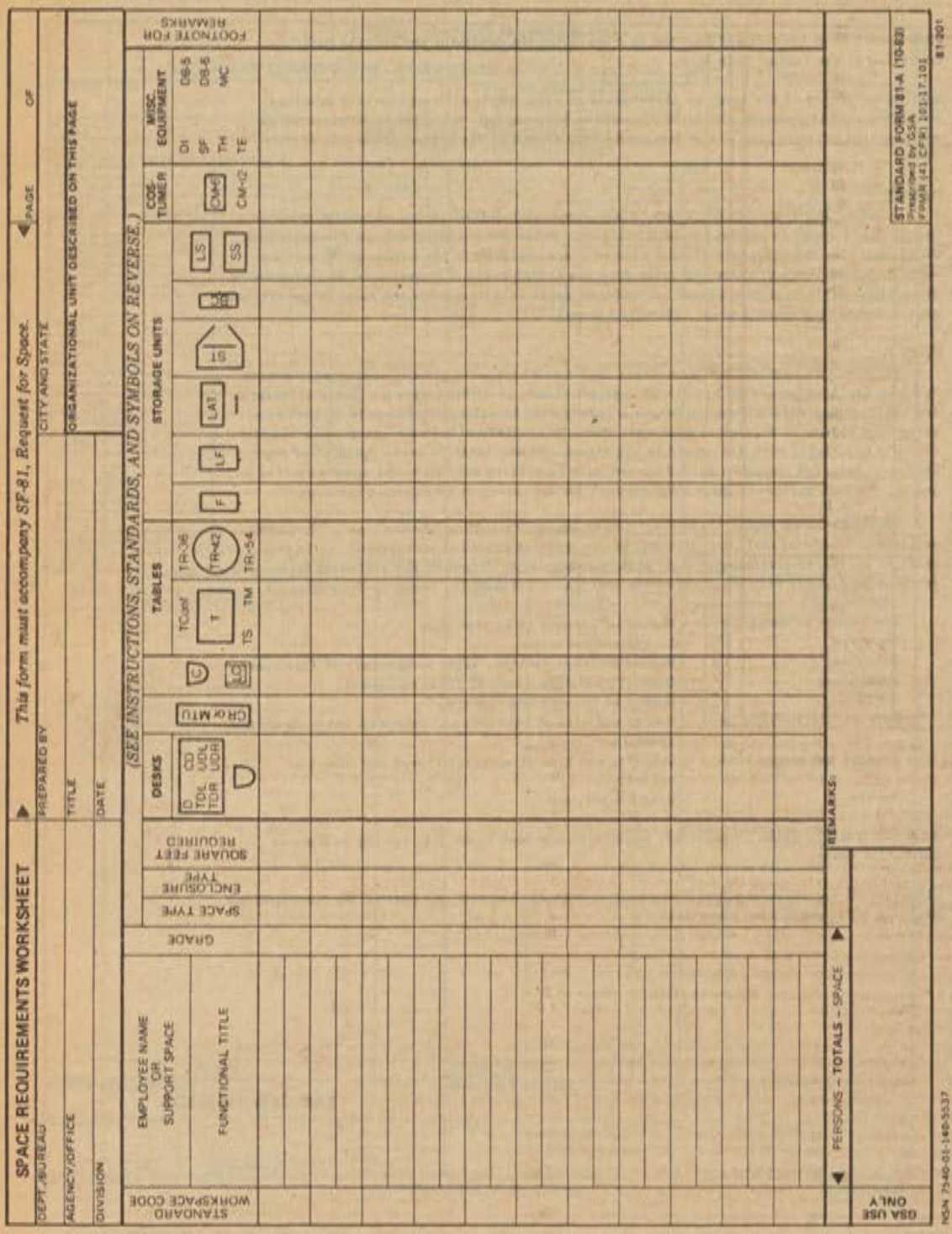
A special justification is required, explaining the need in detail, for any unusual requests for space.

Complete and accurate data must be entered in Part II: the size and cost of the contemplated building will depend upon these data.

GSA FORM 144 (BACK)

PFMR Temp. Reg. D-71
Attachment A

June 20, 1985



June 20, 1985

FPMR Temp. Reg. D-71
Attachment A

SECTION 1 INSTRUCTIONS, STANDARDS AND SYMBOLS

DESKS

D	Standard Desk 60x30
TDL or TDR	Typist Desk 60x34 w/Left or Right Typing Bed
UDL or UDR	Unitized Desk 60x30 w/Left or Right L-unit Return 36x18
CD	Conference Desk 72x36

STORAGE UNITS

F	File, Letter 15x28 (7)
LF	File, Legal 18x28 (8)
LAT	Lateral File 36x18 (9)
BC	Bookcase 34x14 (6)

TABLES

TConf	Table, Conference 72x36
T	Standard Table 60x34
TM	Table, Medium 45x34
TS	Table, Small 36x24
MTU	Modular Table Unit 66x18
TR-54	Table, Round 54"
TR-42	Table, Round 42"
TR-36	Table, Round 36"
TH	Table, Host 42x18
TE	Table, End 18x24

DIVAN

DI	Divan or Sofa 72x40

CHAIR

C LC	Guest Chair Lounge Chair

MISCELLANEOUS

ST	Storage Cabinet 2-Door 36x18 (12)
SS	Steel Shelving 36x18 (10)
LS	Library Shelving 36x15
DB-6 S	Drawing Boards DB-5 60x40 DB-6 72x45 S- Stool
MC	Map Cabinet 54x42
CM-12	Costumer 12-Hanger 51x20 (14)
CM-6	Costumer 6-Hanger 30x20 (8)
CR	Credenza 66x18

SPACE TYPE SYMBOLS:	
O	Open Area
P	Private Area
SP	Semi-Private Area
ENCLOSURE TYPE SYMBOLS:	
CH	Ceiling-High Partition
PS	Privacy Screen
O	Open

SECTION 2 PROGRAMMING INSTRUCTIONS

(1) Organize the data supporting your request by functional work groups. When one work group has been described begin the next work group on a new page.

(2) The requesting agency is responsible for describing the following workspace elements of the *Space Requirements Program*.

- **Workstations** are indicated by employee name, functional title and grade for each *authorized and budgeted* position. *If the authorized position is vacant, so indicate.* Square feet required are determined by layout design on SF-81A, Part 2.
- **Common Function** spaces are indicated by the appropriate name of the workspace (conference, reception, etc.) and the symbol C/F in the grade column. Square feet required are determine by layout design on SF-81A, Part 2.
- **Administrative Support** spaces are either *centralized files* or miscellaneous equipment (i.e., costumers, an extra bookcase) not appropriately contained within other workspaces. Indicate A/S in the grade column. Square feet required may be determined by multiples of the allowance indicated in ( ) in Section 1 above.

(3) Develop the space requirements program in the following manner:

Step 1: List all workspace elements described in (2) above in an order determined by adjacency relationships.

Step 2: As necessary, prepare a standard workspace design on SF-81A, Part 2 for each workstation or common function workspace element. Indicate the dimensions of the workspace and calculate the square feet required.

Step 3: Use the symbols shown within the illustrations above in Section 1 to itemize furnishings and equipment on SF-81A. DO NOT LIST EXCESS. Itemized listings need not be shown for line items previously standardized. Simply code the line entry appropriately.

Step 4: Complete the line item entry by indicating space and enclosure type, square feet required and workspace code No.

(4) Describe, in *Remarks*, all special needs such as: weight of heavy items, special utilities, service access requirements, supplemental HVAC, etc. Develop a separate specification sheet if necessary.

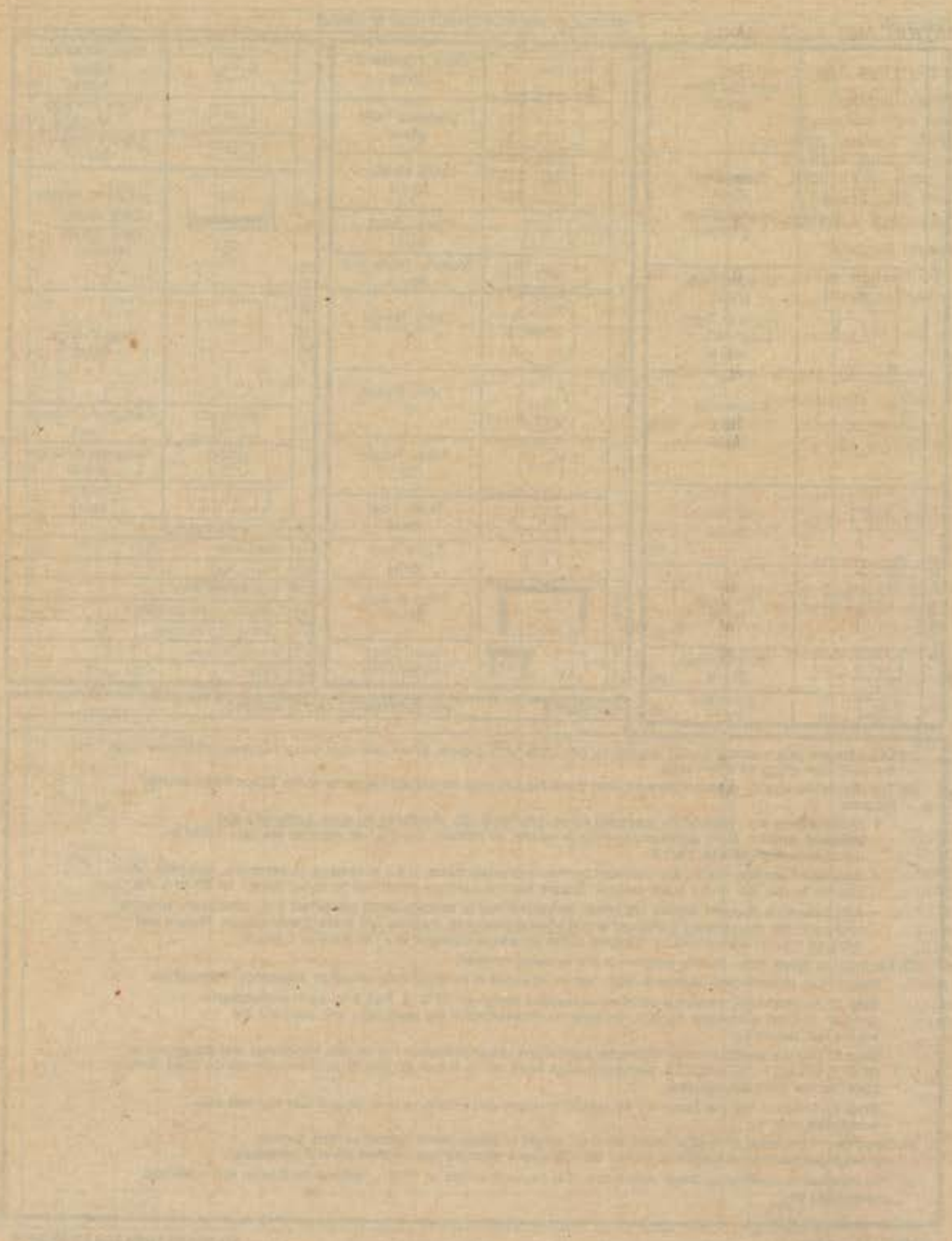
(5) The information provided on these worksheets is to be summarized on SF-81, Request for Space, and submitted attached thereto.

* GPO: 1984—429-909

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[FR Doc. 85-15374 Filed 6-25-85; 8:45 am]

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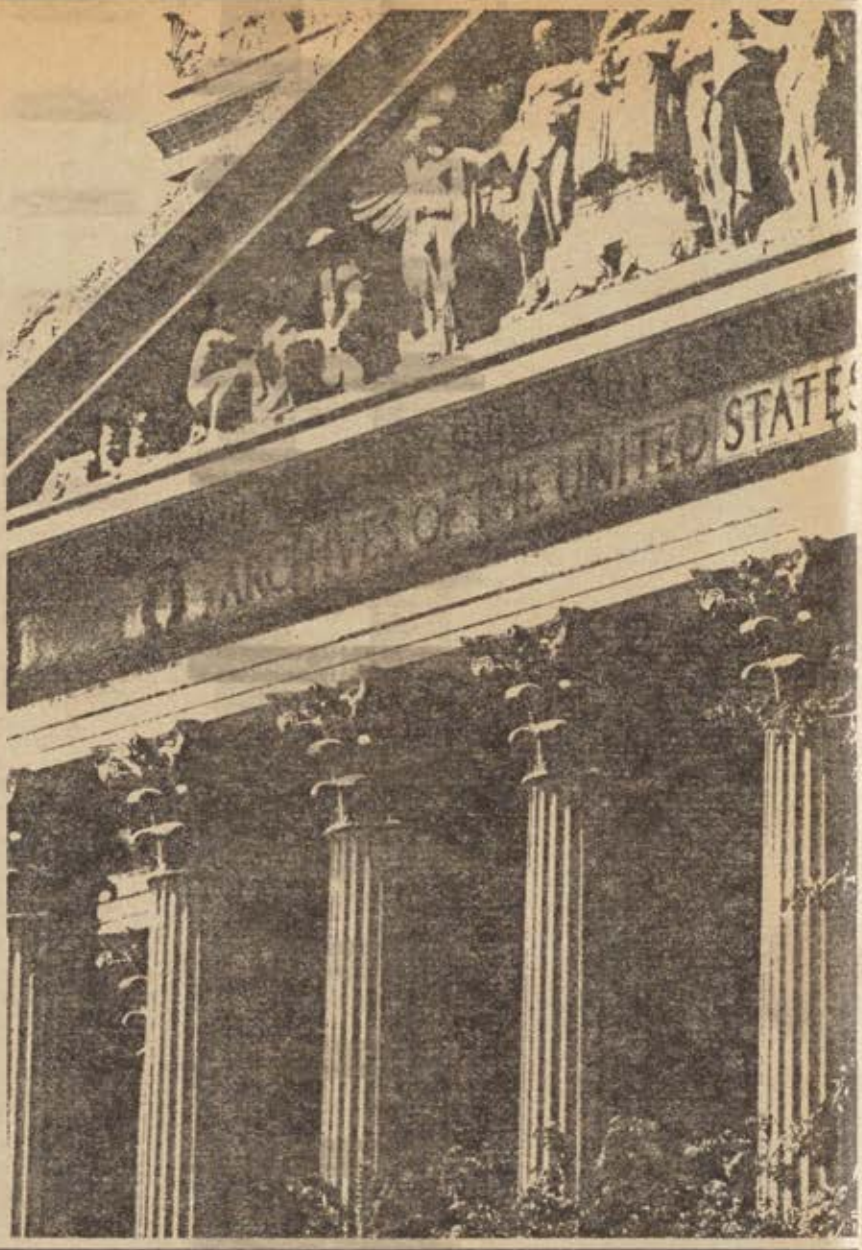
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